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Working Party No. 2 on Competition and Regulation

**Assessing and Communicating the Benefits of Competition Interventions – Note by
Portugal**

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This document reproduces a written contribution from Portugal submitted for Item 6 of the 75th meeting of Working Party 2 on 12 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm>

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Portugal

1. Introduction

1. Promoting competition in the Portuguese economy is one of the key elements of the mission of the Autoridade da Concorrência – Portuguese Competition Authority (AdC).¹

2. In light of this, and recognizing that effective communication of the benefits of competition is essential for competition authorities, one of the AdC’s strategic and operational objectives of the AdC is to strengthen the communication of the benefits and rules of competition to stakeholders.²

3. The AdC has indicated in its priorities for 2023 that it will intensify initiatives to advocate and communicate the benefits of competition to stakeholders, including companies, associations, regulators and students. In particular, the AdC launched a wide-reaching initiative “20 years, 20 cities” and will continue its outreach initiatives in priority sectors, namely with the “Fighting Bid-Rigging in Public Procurement” initiative, the Best Practices Guide for Business Associations, the Best Practices Guide on Anticompetitive Agreements in the Labor Markets and the Best Practices Guide on gun-jumping.³

4. In this contribution, we explore how the AdC seeks to communicate effectively the benefits of competition, discussing examples of the AdC’s advocacy outreach initiatives (section 2), reviewing other communication tools used by the AdC (section 3), looking at how competition is perceived in Portugal (section 4) and concluding with final remarks (section 5).

2. AdC outreach initiatives to communicate the benefits of competition to stakeholders

5. Based on the AdC’s experience, direct contact with stakeholders is essential for communicating competition’s benefits and rules. The AdC therefore seeks to engage directly and on a regular basis with public entities, legislators, lawyers, economists, academics, the media, the business community, consumers and citizens.

6. The AdC’s outreach initiatives are one of the main advocacy tools used by the AdC to communicate the benefits of competition, promoting legal certainty and transparency, and encouraging complaints and leniency applications. Some of the advocacy campaigns are discussed in more detail in the following subsections.

¹ The mission and goals of the AdC are available at <https://www.concorrencia.pt/en/adc-mission-and-goals>.

² See page 11 of the AdC Activity Plan for 2023, available at <https://www.concorrencia.pt/sites/default/files/Plano%20de%20Atividades%20AdC%202023.pdf>.

³ See page 4 of the AdC priorities for 2023, available at <https://www.concorrencia.pt/sites/default/files/Competition%20Policy%20Priorities%20for%202023.pdf>.

2.1. The “20 Years, 20 Cities” initiative

7. To celebrate its 20th anniversary (2003-2023), the AdC recently launched the "20 Years, 20 Cities" campaign, through which the AdC is promoting the benefits of competition and the risks of non-compliance across the whole country.⁴

8. With this initiative, the AdC is taking a proactive approach to communication with key stakeholders such as the business community, namely SMEs. As one is witnessing a strong entrepreneurial dynamic in all regions of the country and a displacement of businesses, especially startups, to geographical areas farther away from the capital Lisbon, the campaign aims at bringing the AdC's activity and impact closer to all citizens and entrepreneurs.

9. It is a partnership of the AdC with 20 municipalities and, through them, the regional and district business associations, which will consist of sessions with stakeholders in all district capitals and to the Autonomous Regions of Azores and Madeira, on a monthly basis, with a total of 20 sessions foreseen to take place between 2023 and 2025.

10. The initiative builds on prior experience from the AdC, such as the “Fair Play Campaign”⁵, launched in 2014, which included a road show across 8 cities in partnership with local, regional and national business associations, promoting the benefits of competition and the importance of compliance with competition rules.

11. In these campaigns, the AdC prepares and distributes several communication materials (e.g., movies, a dedicated micro-website, fiches on relevant competition elements and leniency brochures) and uses accessible and adapted language with an appealing design to effectively convey its messages. In this context, the AdC has also made use of press-releases and social media, in order to reach a broader audience.

2.2. “Fighting Bid-Rigging in Public Procurement” campaign

12. Since 2016, the AdC has been carrying out the “Fighting Bid-Rigging in Public Procurement” campaign, engaging with contracting public authorities, so that they become aware of the main warning signs of collusion in public procurement procedures and know how to prevent this type of behaviour. The objective is to raise awareness regarding bid-rigging in public procurement and to promote competition in this area.

13. This initiative involved the preparation of the “Guide of Best Practices in Fighting Bid-Rigging in Public Procurement”⁶ explaining strategies that contracting authorities should adopt to reduce the risk of collusion and further promote competition in tenders. The Guide also addresses the consequences of anticompetitive behavior, the most common types of collusion, the market characteristics which facilitate collusion, the signs of alert that indicate this behavior, including a checklist, as well as measures that can be adopted *ex-ante* to reduce the risk of it happening.

⁴ See press release concerning the launch of the "20 Years 20 Cities" campaign at <https://www.concorrenca.pt/en/articles/adc-launches-program-disseminate-benefits-competition-districts-and-autonomous-regions>.

⁵ See the AdC's Fair Play Campaign brochure available at <https://www.concorrenca.pt/sites/default/files/documentos/guias-promocao-da-concorrenca/Benefi%CC%81cios%20da%20concorre%CC%82ncia%20Fair%20Play.pdf>

⁶ Available at <https://www.concorrenca.pt/en/combating-bid-rigging-public-procurement>.

14. So far, the campaign to promote the Guide has reached above 3,500 participants in more than 50 sessions. These sessions have included key public procurement stakeholders, such as the Court of Auditors or the Institute of Public Markets, Real Estate and Construction (IMPIC), the sector regulator which runs the national public procurement database, different government areas – health, education, defence, infrastructure –, as well as municipalities and regions.

15. This campaign produced tangible results, with several cases being investigated and later sanctioned after the submission of complaints concerning public procurement. For instance, in the past years, the AdC has sanctioned public procurement cartels in the provision of railway maintenance services⁷, health services⁸, surveillance and security services⁹, teleradiology services¹⁰ and cables for electricity transportation¹¹.

2.3. Best Practices Guide for Business Associations

16. Business associations are usually representative of a particular sector of activity or a geographical area, working to defend the common interests of companies. As they gather a significant part of the competitors in a given sector, they may be vulnerable to violations of competition rules. However, their particular circumstances also make them important advocacy allies. Therefore, the AdC considers it is essential to involve business associations – and their directors, supervisory bodies, and members – in the AdC communication strategy concerning the benefits of competition and the risk of non-compliance.

17. To this end, the AdC published the “Guide for Business Associations”¹², which sets out guidance on behaviour to be avoided in order to ensure compliance with competition law. This Guide aims to inform business associations about the decisions and behaviors to avoid, but also to champion the benefits of competition.

18. Since the publication of the Guide the AdC has been carrying out a series of workshops to disseminate its content. In preparing these activities, the AdC makes a careful choice of (i) sectors, ensuring that they are diverse, representative of economy and/or prone

⁷ See

https://extranet.concorrenca.pt/pesquisAdC/PRC_OR_INC_OR_PCC_Page.aspx?IsEnglish=True&Ref=PRC_2016_6

⁸ See

https://extranet.concorrenca.pt/PesquisAdC/PRC_OR_INC_OR_PCC_Page.aspx?Ref=PRC_2019_2&isEnglish=True

⁹ See

https://extranet.concorrenca.pt/PesquisAdC/PRC_OR_INC_OR_PCC_Page.aspx?IsEnglish=True&Ref=PRC_2019_4.

¹⁰ See

https://extranet.concorrenca.pt/PesquisAdC/PRC_OR_INC_OR_PCC_Page.aspx?IsEnglish=True&Ref=PRC_2021_3.

¹¹ See

https://extranet.concorrenca.pt/PesquisAdC/PRC_OR_INC_OR_PCC_Page.aspx?Ref=PRC_2021_1&IsEnglish=True.

¹² Available at https://www.concorrenca.pt/sites/default/files/2021-06/Guia%20para%20Associac%CC%A7o%CC%83es%20de%20Empresas_AdC.pdf.

to collusion, (ii) speakers, (iii) location and duration of the sessions, and (iv) key messages, which are tailored to the audience.

2.4. Best Practices Guide on Anticompetitive Agreements in Labor Markets

19. In 2021, the AdC published the Issues Paper “Labor Market Agreements and Competition Policy”¹³, aiming to raise awareness among the business community concerning the risks to workers and consumers arising from anticompetitive agreements in the labor market, such as no-poach agreements and wage-fixing agreements.

20. In parallel, the AdC also issued the Guide “Best Practices in Preventing Anticompetitive Agreements in Labor Markets”¹⁴, which comprises a set of good practices that companies must follow to comply with competition law in the context of labor markets, and which also include information on how to file complaints with the AdC when companies are aware of evidence that may constitute anticompetitive agreements in the labor market.

21. The Guide is aimed at companies, human resources professionals and other individuals involved in the recruitment process. The AdC is developing outreach activities to disseminate it among this target audience, raising awareness to the best practices in the hiring of employees and when fixing salary conditions.

3. AdC communication tools

22. The AdC favors communication through tools allowing direct interaction with stakeholders in a reliable, accurate and transparent manner.

3.1. Website and dedicated search engine “PesquisAdC”

23. One of the main communication tools is the AdC’s website,¹⁵ which seeks to provide information concerning the AdC’s activity in a timely and interactive way.

24. Under its Bylaws, the AdC's website should include information concerning, among others, relevant legislation, guidelines, recommendations, codes of conduct, the AdC priorities set on an annual basis, the AdC annual and multiannual activity plans, annual reports, the AdC budget, the AdC management and accounting reports, information concerning the AdC’s supervision and sanctioning activity (statistics, decisions, jurisprudence, studies, sector inquiries, public consultations), cooperation agreements, press releases, recruitment procedures, internal regulations and other institutional information.¹⁶

¹³ Available at

https://www.concorrenca.pt/sites/default/files/Issues%20Paper_Labour%20Market%20Agreements%20and%20Competition%20Policy.pdf.

¹⁴ Available at <https://www.concorrenca.pt/sites/default/files/documentos/guias-promocao-da-concorrenca/Best%20Practices%20in%20Preventing%20Anticompetitive%20Agreements%20in%20Labor%20Markets.pdf>

¹⁵ The website is available in Portuguese (www.concorrenca.pt) and English (www.concorrenca.pt/en).

¹⁶ Article 46 of the Statutes of the AdC, available (in Portuguese) at <https://www.concorrenca.pt/sites/default/files/documentos/Lei%20n.%C2%BA%2017-2022.pdf>.

25. In particular, the website provides access to the AdC’s decisions, studies and recommendations, as well as judicial decisions, through “PesquisAdC”, a dedicated search engine.¹⁷

26. In addition, the website provides specific pages covering the AdC’s mission, goals, values and vision¹⁸, as well as the benefits of competition¹⁹. The latter provides information on how competition benefits the economy and the society, explains the role of the AdC and provides links to AdC documents, concerning the promotion of competition, such as Guides, Best Practices or Issues Papers.

27. The website also provides access to specific channels for reporting anticompetitive practices and for notifying mergers²⁰. In 2021, the AdC modernized its complaints’ portal.²¹ In addition, following the EU Whistleblower Directive²², in September 2022 the AdC introduced a new whistleblower tool²³, accessible through the AdC website.

3.2. Multimedia, podcasts and social networks

28. The AdC website also includes multimedia content produced by the AdC to inform stakeholders about the benefits and rules of competition.²⁴ This includes a “CompCast - Competition Talks” podcast series with competition experts covering topical issues, aimed at a specialized audience²⁵, a “2 minutes of competition” podcast series explaining the main features of antitrust rules, procedures and compliance, targeting a more generalized audience²⁶, as well as recent videos related to competition and AdC’s activities²⁷.

29. Responding to increasing interest from stakeholders, the AdC produces informative content concerning the AdC’s activity and competition policy for social networks^{28,29}.

¹⁷ Available at <https://extranet.concorrenca.pt/PesquisAdC/SearchNew.aspx?IsEnglish=True>. See informative video at https://www.youtube.com/watch?v=q8edX7y2C_c.

¹⁸ Available at <https://www.concorrenca.pt/en/adc-mission-and-goals>.

¹⁹ Available at <https://www.concorrenca.pt/en/benefits-competition>.

²⁰ SNEOC — Electronic Notification System for Mergers is an online platform that allows the electronic filing of merger notification, available at <https://extranet.concorrenca.pt/SNEOC/LoginTest.aspx?IsEnglish=True>.

²¹ Available at <https://www.concorrenca.pt/en/faq/how-can-i-report-anti-competitive-practices>.

²² Directive (EU) 2019/1937 of the European Parliament and of the Council, of 23 October 2019, on the protection of persons who report breaches of European Union Law.

²³ Available at <https://concorrenca.whispli.com/lp/external?locale=en>. See informative video at <https://www.youtube.com/shorts/U2R72TZ9ti0>

²⁴ Available at <https://www.concorrenca.pt/en/adc-multimedia>.

²⁵ Available at <https://www.concorrenca.pt/en/adc-multimedia/competition-talks>.

²⁶ Available at <https://www.concorrenca.pt/pt/adc-multimedia/2-minutes-talk> (only in Portuguese).

²⁷ Available at <https://www.concorrenca.pt/en/adc-multimedia/videos>.

²⁸ Available at <https://www.linkedin.com/company/autoridade-da-concorr-ncia---portuguese-competition-authority/>.

²⁹ Available at <https://www.youtube.com/@autoridadedaconcorrenca5406>.

These contents are posted in Portuguese and English, in order to respond to interest from both national and international stakeholders.

3.3. Other communication tools

30. As another way to interact with its target audience, the AdC publishes a monthly newsletter “AdC News” in Portuguese and English, summarizing the AdC’s activity, including decisions, studies, opinions, recommendations, events, communication initiatives, among others. This has been a successful instrument for direct communication with an increasing number of national and international stakeholders.

31. The AdC also develops several other initiatives to disseminate the knowledge of competition matters and the benefits of competition.

32. The AdC regularly organizes seminars and webinars open to the general public, where national and international experts discuss competition policy topics with a view to promote the debate on current issues.³⁰ These seminars, held online, in person or in a hybrid format, are aimed at AdC’s stakeholders, such as the business sector, sector regulators, consultants, lawyers, academics and students.

33. The “AdC Competition Policy Award”³¹, held on an annual basis, encourages scientific research in antitrust by distinguishing academic papers covering the application of competition law and economics. The award may be attributed to authors writing in Portuguese or in English, individually or in co-authorship, on topics of legal or economic nature.

34. The AdC also regularly organizes the Lisbon Conference on Competition Law and Economics, which seeks to discuss recent trends in competition policy and practice. The Conference brings together enforcers, private practitioners, and academia, and is open to participation of any interested citizens.³² In 2023, the Conference will be held on 8-9 November and feature the celebration of the AdC’s 20th Anniversary.

35. Finally, the AdC also publishes the Competition and Regulation Journal³³, a biannual publication that aims to promote debate and innovation in the study of topics related to competition law, including its interaction with economic and financial regulation. The C&R Journal acts as a platform to disseminate competition policy, combining analysis and scientific research with the practical experience of applying competition rules, and providing academics and professionals with a reference work tool. It is a collaborative project, open to individual or institutional stakeholders that wish to contribute with their practical, academic or professional experience to the discussion of relevant topics of competition law.

4. Awareness of the benefits of competition in Portugal

36. The AdC does not regularly carry out surveys on awareness of competition law, but there is data available from surveys published by the European Commission

³⁰ Information concerning past and current seminars available at <https://www.concorrenca.pt/en/events>.

³¹ Information available at <https://www.concorrenca.pt/en/what-adc-competition-policy-award>.

³² See information on past editions at <https://www.concorrenca.pt/en/events>.

³³ Editions available online at <https://www.concorrenca.pt/en/competition-and-regulation-journal>.

(Eurobarometer) concerning perceptions about competition policy in each Member State of the European Union.³⁴

37. In the Eurobarometer survey published in 2022, Portugal showed results above the EU average in almost all categories. Portugal had the highest percentage of respondents who consider that competition allows a greater variety of choice of products and services and that competition enforcement policies contribute to better and cheaper products and services.

38. More than 90% of the Portuguese respondents consider that competition between companies delivers better prices, a percentage 7 points higher than in 2019. Moreover, 96% of the Portuguese respondents believe that competition policy is a factor that helps stimulate economic growth and employment. Finally, Portugal is the EU Member State with the second highest proportion of citizens who have read or heard about competition cases in the last 12 months (88%).

4.1. Concluding remarks

39. Competition advocacy is one of the key elements of the AdC's mission. Therefore, the AdC engages on a regular basis with a variety of stakeholders, including public entities, policy makers, lawyers, economists, academics, the media, the business community, consumers and citizens in general.

40. The importance of this engagement is reflected in the AdC's priorities, under which the AdC is seeking to strengthen the communication of the benefits of competition with stakeholders. Recent survey data is also encouraging in this respect, showing an improvement in the perception in Portugal concerning the benefits of competition.

41. Planning the communication of the benefits of competition involves careful consideration of the target audience, tailoring the message and exploring different communication tools. The AdC favors communication through tools allowing direct interaction with stakeholders in a reliable, accurate and transparent manner.

42. Outreach initiatives are one of the main advocacy tools used by the AdC to communicate the benefits of competition, promoting legal certainty and transparency, and encouraging complaints and leniency applications.

³⁴ Available at <https://europa.eu/eurobarometer/surveys/detail/2654>.