

Best Practices

In preventing
Anticompetitive Agreements
in Labor Markets



Autoridade da
Concorrência

Who is it aimed at?

This guide is aimed at companies and human resources professionals and others involved in the recruitment process in companies.

What is the objective?

Raise awareness to the risks of entering into anticompetitive agreements and of best practices in the hiring of employees and the definition of salary conditions.

What type of labor market agreements can harm competition?

Agreements to fix wages or other forms of compensation

These are **agreements** by which companies harmonize or standardize the wage or other benefits of their employees.

Agreements not to solicit or not to hire employees (no-poach agreements)

These are agreements whereby companies mutually agree not to make spontaneous offers or to hire employees, without the prior consent of the other companies in the agreement.

What effects can labor market agreements have?

Introduce an inefficiency
by distorting the allocation of the labor input

Have an instrumental role
in market sharing agreements between competitors

Signal poor competition
between competing firms downstream

Reduce quality and variety
of products or services provided

Limit the ability
of a firm to expand production

Reduce the salary
of employees

Dampen investment
in human capital



Competition Law and Labor Market

No-poach and **wage-fixing agreements** may harm employees and consumers by restricting competition in several dimensions.

No-poach and **wage-fixing agreements** may be subject to fines as agreements between companies, concerted practices and/or decisions by associations of companies within the meaning of article 9 of the Portuguese Competition Law and, if applicable, of article 101 of the Treaty on the Functioning of the European Union (TFEU).

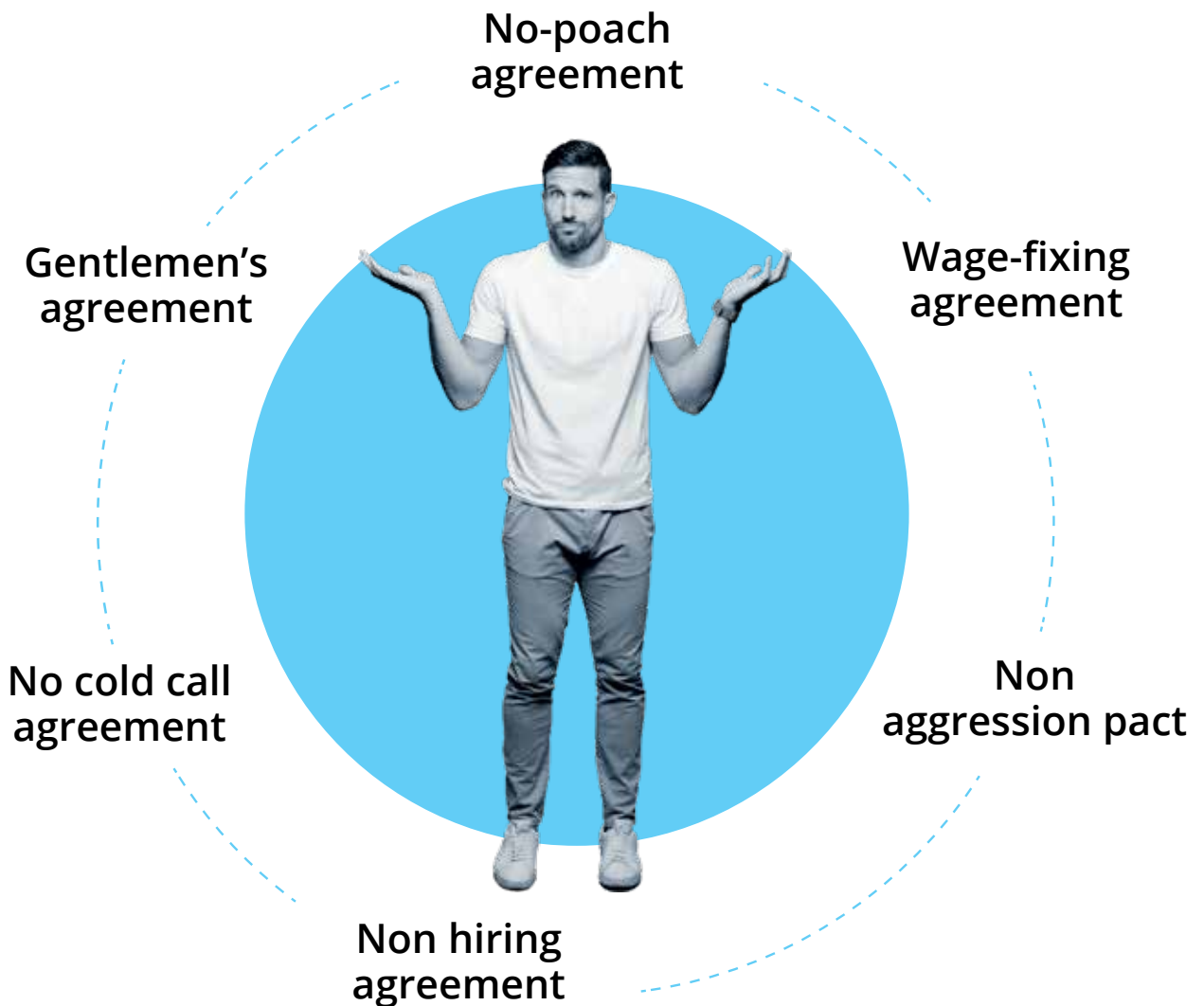
These **agreements** are liable to be punished with a fine applicable:

1. To infringing companies and associations of companies, **up to 10% of their turnover.**
2. To individuals, **up to 10% of their annual remuneration.**

They are also subject to claims of full compensation for that harm, under the Private Enforcement Directive.



An anticompetitive labor market agreement can also be referred to as:



Eliminate hiring or wage setting policies that involve agreements with other companies

Do not refuse to solicit or to hire employees from another company.

Do not exchange commercially strategic and sensitive information about employee hiring and compensation

- **Outside legitimate contexts of social dialogues and/or collective bargaining agreements, as social partners:**

Do not participate in meetings with other companies where salaries or any other form of compensation is discussed

Do not agree with another company to fix salaries or any other form of compensation



If you have suspicions of anticompetitive agreements involving the hiring of employees or wage setting conditions between companies contact Autoridade da Concorrência

The **complaint** can be made anonymously.

When detecting a conduct that may harm competition, the AdC investigates and punishes with fines, whenever there is a practice prohibited by the Portuguese Competition Law and, if applicable, by the TFEU.

An application for **leniency** (legal framework for granting immunity or reduction of fines) can be made.







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With **competition**, everybody wins.



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