***30 Years Hellenic Competition Commission (****1995 – 2025)*

The Evolution of Competition Policy and Enforcement

Greek and International Perspectives

October 20th, 2025

**Panel IV - International Cooperation in a globalized and digital world**

15:30 – 17:00

**Nuno Cunha Rodrigues**

## *1. International cooperation – the specific role of UNCTAD*

Thank you, Axel.

It's a pleasure to be here today and share this panel with all of you.

In my view, in the development of competition law and policy, UNCTAD's role may be perceived as parallel or even *upstream* – to use the word in a non-technical manner – to the work developed by OECD and then, by the ICN.

Indeed, **UNCTAD** works at the grass roots of the emergence and development of competition principles and laws across the globe.

It aims to set the conditions and organizational framework so that competition *awareness* can emerge and, in time, and with the right political and economic conditions, flourish into a full-grown competition law framework.

In that sense, UNCTAD bridges the global community of competition authorities and other relevant public institutions, linking technical dialogue with the broader goals of inclusive and sustainable growth.

Against this background, the **OECD** provides the forum for technical policy discussions, based on legal and economic analysis, namely regarding the application of competition laws.

Finally, within the **ICN**, national competition authorities find the forum to actively cooperate in practice and in the context of real and concrete procedures. In short, it connects enforcers directly.

All in all, these **tree forums positively concur** in allowing competition enforcers and stakeholders to **look at their national frameworks within the broader context** of competition policy and law development, enabling ongoing dialogue with a view not only to improving national practices in light of the experience of others, but also to foster effective practical cooperation and, to the extent possible, gradual convergence and coherence.

## *2. Bilateral cooperation*

In our experience, we see that there is a virtuous circle between the multilateral and regional international cooperation forums that we are a part of, and the bilateral agreements and

cooperation that can be fostered and achieved in the context – and as a result of – the work done in those forums.

For us at the AdC, the **European Competition Network** provides the framework for bilateral information exchange and continuous dialogue regarding **antitrust cases**. Indeed, beyond formal notification obligations between NCAs and the European Commission at key moments of the procedures, we keep regular informal pick-up-the-phone contacts.

**The AdC has had a positive experience with the European Competition Network**, namely by performing joint and simultaneous dawn raids with other Member States (namely, the CNMC)[1], making joint interviews, and exchanging confidential information, for instance through requests for information sent by AdC and vice versa.

Additionally, we are also experienced in the use of the cooperation mechanism of article 22 of Reg 1/2003, which allows us to ask other NCA's to conduct unannounced inspections on behalf and for the account of the AdC[2].

This cooperation is in fact embedded in the daily life of our investigations.

[1] Procedure PRC/2021/2: https://www.concorrencia.pt/en/articles/portuguese-and-spanish-competition-authorities-conduct-unannounced-inspections-possible
[2] Procedure PRC/2022/5: https://extranet.concorrencia.pt/PesquisAdC/Page.aspx?IsEnglish=True&Ref=PRC_2022_5

**Beyond the ECN**, and as I mentioned previously, forums like the ICN, OECD and UNCTAD provide a framework that fosters effective bilateral cooperation, albeit resting upon soft law (in the case of ICN) or on treaties which do not provide for binding rules on bilateral cooperation (like OECD and UNCTAD).

Indeed, I would like to highlight the invaluable existence of multilateral platforms for **cooperation and development of mutual trust** between NCA's, notably in a context where there are no legally binding rules.

Just recently the AdC investigated an alleged multinational cartel[3]. The investigation started after a leniency application from a company based outside the Portuguese territory involving companies based in Japan – which applied for leniency[4] - Brazil and Uruguay.

In this case, the AdC used international enforcement cooperation tools, such as the **ICN cartel leniency model waiver** and followed the OECD 2014 Recommendation concerning International Co-operation[5] when reaching out to the undertakings.

[3] The case was filed on 25 October 2023, as the evidence gathered during the investigation did not allow to confirm, with a sufficient degree of certainty, the direct exchange of information initially indicated.

[4] Procedure PRC/2022/5: https://extranet.concorrencia.pt/PesquisAdC/Page.aspx?IsEnglish=True&Ref=PRC_2022_5

[5] OECD Recommendation concerning International Co-operation on Competition Investigations and Proceedings - OECD

Secondly, regional instruments also play a relevant role: the so-called 1st and 2nd generation agreements[6,7] and regional organizations.

And here, I would like to share with you the excellent experience within the **Portuguese Speaking Countries**. The authorities of the Portuguese-speaking countries have promoted regular meetings and technical assistance projects regarding the detection, investigation and sanctioning of antitrust cases and advocacy tools – creating direct channels of communication between the enforcers and paving the way for a more robust enforcement in our jurisdictions.

A particular case of successful bilateral cooperation with a Portuguese speaking country is the case of Angola.

In the context of the ongoing and open dialogue between the EU and Angola under the framework of the project "**EU-Angola Joint Way Forward"**, we have recently been able to put in place two cooperation projects, funded by the European Commission.

So, this is a clear example of the virtuous circle I mentioned.

Indeed, the inclusion of competition projects in the broader dialogue and cooperation between the EU and Angola has been

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[6] Which "*aim to preempt any potential frictions relating to extraterritorial application of domestic rules and to facilitate engagement between parties*." Marek Martyniszyn, "Extraterritoriality in EU Competition Law".

[7] These allow for "*different types of information exchange and include confidentiality safeguards, limitations on use or further disclosure of the information*" – see OECD, https://www.oecd.org/daf/competition/competition-inventory-provisions-exchange-of-information.pdf. For instance the one between the EU and Switzerland.

essential for us to deepen the collaboration between our two authorities and streamline the reciprocal exchange of experiences and knowledge, for example, allowing for more meetings in person between case handlers.

Finally, the AdC has indeed been actively strengthening its bilateral ties through the celebration of MoUs with other countries – including, most recently, with the CNDC of Argentina and the Competition Authority of Cabo Verde.

These protocols cover a wide range of initiatives, including sharing of best practices, joint workshops, training sessions, and technical assistance.

Allow me now to address specifically the topic of **merger control**.

In this regard, and unlike the realm of antitrust, in merger control there is no legal basis for the exchange of confidential information between NCAs within the EU.

So, even though cooperation between NCAs may start even before exchange of confidential information, the effectiveness of their cooperation is also dependent on **waivers** from the Notifying Parties necessary for the NCAs to exchange and discuss confidential information.

To this effect, the **ICN model confidentiality waiver** offers a tool for swift and effective party cooperation.

In this context, bilateral cooperation becomes particularly relevant. Over the past decade, nearly 20% of mergers reviewed by the AdC were also notified to, at least, one other competition authority. In fact, over 70% of these multijurisdictional cases involved parallel notification to both the AdC and the CNMC. In these cases, close coordination was essential to ensure coherent decision-making, taking into account national market definitions and competitive dynamics.

## *3. The evolution of digital cases going forward – the "Brussels effect" and the extraterritorial effect of EU law*

In my view a "***Brussels effect***" theory would not allow us to look at all possible extraterritorial effects of EU law in the digital economy, as in this case, two of the **necessary prerequisites** to conclude for the existence of such a possible effect – as most notably explained by Anu Bradford[8] – **are not present**: that is, the targets are not *inelastic* nor *indivisible*.

Nevertheless, in what concerns digital markets, I believe the **extraterritorial effect of EU law** is, indeed, twofold: both at the level of regulatory legislation, like de DMA, as well as at the level of competition law.

[8] ANU BRADFORD, *The Brussels Effect: How the European Union Rules the World*, Oxford University Press, pub. 19 December 2019.

On the one hand, the **DMA** established a **broad subjective scope**, covering all essential platform services provided or offered by gatekeepers to users (business or end users) established or located in the Union.

One might say that this territorial link, which is valid and compliant with international law, does act as a hook that ensures the expansion of the EU's regulatory power in the digital economy.

In this context, the fact that designated gatekeepers have submitted **unique and original DMA compliance programs** may lead to what some refer to as a "*reverse Brussels effect*", to the extent that, on the one hand, these companies will seek more appropriate solutions for these programs to comply with the DMA in the EU ("EU versions") but, at the same time, they may relax in other jurisdictions that do not yet have similar legislation in place ('non-EU versions').

In any case, I believe that the **DMA** has been a very interesting experiment regarding **the role of cooperation between all stakeholders**.

- First, it is based on a **compliance-first** rather than punishment approach.
- Second, bilateral **regulatory dialogues** where firms and the Commission exchange information on the implementation of the DMA provide a lot of information to the Commission.

- Third, the **workshops organized by the Commission** where both gatekeepers and relevant third parties interact and discuss with each other about the nature and possible impact of obligations are very informative and have been a crucial way to gauge the possible impacts of the obligations.

This kind of interaction and cooperation have helped address information asymmetries and, namely, improve the design of remedies in digital markets.

Looking now specifically at competition law, as we know, this *principle of territoriality* is also present, in the sense that it applies whenever restrictive effects occur in the territory of the EU.

In this realm, there is still a growing need to ensure close cooperation in what concerns digital markets, as by now the difficulties felt by competition authorities are well known. Those experiments around the DMA might, at this stage, provide helpful guidance.

The first difficulty that comes to mind is that **potential competition often plays a bigger role in digital markets**.

Additionally, digital products and services are often integrated into **digital ecosystems** with **strong interdependencies** between each other.

This makes it more challenging to isolate the problems and to foresee how, for example, remedies will affect related markets.

Moreover, digital platforms operate across borders and often have a very wide geographic scope, which may encompass ultimately the entire world economy. This may limit the **leverage of national competition authorities in imposing remedies**.

For smaller economies, but also for larger ones, there is always a risk that a platform may withdraw from the market in response to enforcement.

This influences not only whether remedies can be effectively imposed but also the type of remedies that can be imposed and highlights the **need for cooperation to ensure both consistent enforcement and remedies** and avoid fragmented approaches.

But allow me to recall some **lessons learnt in recent years** in the context of antitrust.

Firstly, **sometimes behavioral remedies are not enough**. Because of the asymmetry of information between companies and authorities, monitoring behavioural remedies is cumbersome and firms may find ways to circumvent them, changing the form of the conduct but preserving the effect.

An example of this discussion is the well-known **Google AdTech** case, where the Commission has recently fined Goole for favouring its own online display advertising technology services.

Interestingly, the Commission not only issued a cease-and-desist order, but also ordered Google to propose, within **60 days**, remedies suitable to cease Googles inherent conflicts of interest.

In this regard, the Commission seems to have already signalled its **preference for structural remedies**, namely divestments.

Another recent example by the Commission is the imposition of behavioural commitments in the case **Microsoft/Teams,** which will require efficient and timely monitoring to ensure effective implementation.