

FIVE-YEAR TERM REPORT

in the service of competition

Parliamentary Hearings
Economy and Public Works Committee
Budget, Finance and Public Administration Committee

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19 and 13 March 2013

CONTENTS

1. INTRODUCTION

2. ORGANISATION / PRIORITIES

3. COMPETITION ENFORCEMENT & ADVOCACY

4. COMPETITION NORMS

5. INTERNAL MANAGEMENT

6. COMPETITION IN PORTUGAL

7. CONCLUSION

1. INTRODUCTION

➡ **Good institutions and good laws make a good country**

➡ **Competition in Portugal:**

- 1. What framework?**
- 2. What agents?**
- 3. What lessons?**
- 4. What prospects?**

1. INTRODUCTION

- ➔ **Between 2008 and 2012, the PCA has always endeavoured to contribute to the great design that good institutions and good laws make a good country:**
 - ✓ **In carrying out its competition enforcement and advocacy mission:**
 - **Qualitative and quantitative assessment of its performance**
 - ✓ **In contributing to the new legal framework for competition in Portugal:**
 - **Drafting of the initial project and participation in the public consultation that was at the origin of the new Competition Act as well as in the drafting and approval of complementary PCA regulations and guidelines**
 - ✓ **In the PCA *institution building*:**
 - **Internal organisation, internal rules and regulations, development of software applications and functioning of the institution accordingly**
-

1. INTRODUCTION

➡ Competition in Portugal

1. What framework?

- ✓ EU and Portuguese legal framework for competition
- ✓ Economic policy and sectoral regulation
- ✓ Judicial system

2. What agents?

- ✓ Lawmakers, policymakers and law enforcement agents:
Parliament, Government, PCA and Courts
- ✓ To whom the law applies:
Economic agents in non-regulated markets

1. INTRODUCTION

➔ Competition in Portugal

3. What lessons can be learnt from reappraisal?

- ✓ For this, what is required is backward looking assessment of cases, proceedings, market studies, ...
- ✓ This would be worth if conclusions and useful lessons can be drawn
- ✓ In the case of the PCA, the analysis could be organised around the most important cases or around a number of relevant topics
- ✓ In this presentation, it will be organised around a set of 10 relevant topics (see section 6)

1. INTRODUCTION

➔ Competition in Portugal

4. What prospects?

- ✓ **Goal:**
 - **Economy made up of competitive markets in accordance with best practices in the European Union**
- ✓ **Focus:**
 - **Competition enforcement and merger control**
 - **Reduction/elimination of *shadow barriers* to competition (all types of official practices/regulations or economic policy decisions that affect competition in markets)**
- ✓ **Roadmap:**
 - **Until the end of the economic adjustment programme**
 - **After the end of the economic adjustment programme**

CONTENTS

1. INTRODUCTION

2. ORGANISATION / PRIORITIES

3. COMPETITION ENFORCEMENT & ADVOCACY

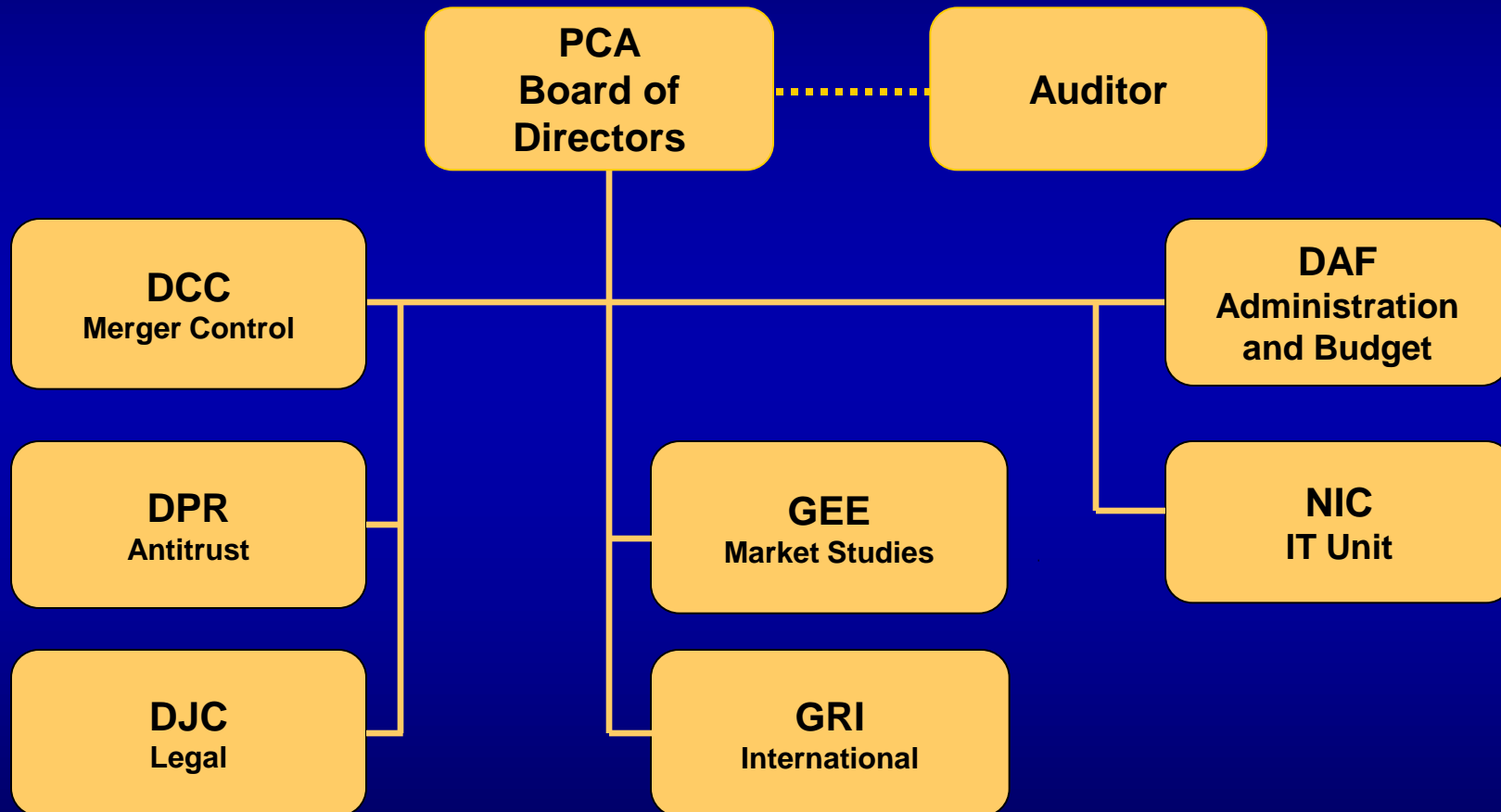
4. COMPETITION NORMS

5. INTERNAL MANAGEMENT

6. COMPETITION IN PORTUGAL

7. CONCLUSION

2. ORGANISATION / PRIORITIES



2. ORGANISATION / PRIORITIES

- ➡ **The organigram shows the 2008 reorganisation of the Portuguese Competition Authority (PCA) aimed at building up a simple and efficient organization, with**
 - 1) 3 case departments (DCC, DPR, DJC);**
 - 2) 5 front offices (DCC, DPR, DJC, GEE, GRI); and**
 - 3) a back office with 2 areas: administrative (DAF) and computing (NIC)**

 - ➡ **It also reflects the three essential PCA features**
 - 1) It is an independent enforcement agency (with sanctioning, supervision and regulation powers) and a knowledge-based institution**
 - 2) It is an institution focused on cases and front office work**
 - 3) It is a Portuguese and European institution**
-

2. ORGANISATION / PRIORITIES

➔ OVERVIEW

- ✓ **MOTTO**

To serve competition

- ✓ **VISION**

To be a benchmark institution on competition enforcement and advocacy

- ✓ **MISSION**

To ensure competition enforcement and advocacy in Portugal

2. ORGANISATION / PRIORITIES

- ➔ **Accountability and parliamentary scrutiny have always been a priority for the current Board of the PCA**
 - ✓ **26 parliamentary hearings in 5 years and 5 ½ months**
 - **2008: 4**
 - **2009: 5** (General election in September)
 - **2010: 8**
 - **2011: 0** (MoU in May, general election in June)
 - **2012: 5**
 - **2013: 4**
- ➔ **No other regulator, not even the PCA in the previous term (8 parliamentary hearings in 2003-2007) was so closely scrutinised by Parliament**

2. ORGANISATION / PRIORITIES

- ➔ **As a result of this scrutiny, the most visible issues that the PCA had to address in the second 5-year term of its history provided opportunities for policymakers, legislators and the public at large to understand better**
 - a) the two facets of the PCA's remit;**
 - b) the scope of its powers; and**
 - c) its *modus operandi***

2. ORGANISATION / PRIORITIES

➔ THE TWO FACETS OF THE PCA'S REMIT

1) Competition enforcement

- Via its sanctioning, supervision and regulation powers, whenever the provisions of the Competition Act or articles 101 and 102 TFEU are at stake (infringement of competition rules)
- Direct action, if necessary coercive and/or imposing fines

2) Competition advocacy

- Via the PCA capacity to identify and assess issues that affect the competitive functioning of markets and the economy even though they are not infringements to competition rules
 - Indirect action, not coercive, through (i) legal and economic analysis, (ii) recommendations and (iii) other competition advocacy initiatives
 - Bringing a solution to such issues is not within the remit of the PCA; rather do they depend on the entities the PCA recommendations are addressed to or on economic policy decisions
-

2. ORGANISATION / PRIORITIES

➔ SCOPE OF THE PCA'S POWERS

1) Competition enforcement

- Administrative proceedings for infringements of the Competition Act or of articles 101 and 102 TFEU
- Administrative proceedings for merger control
- Competition regulations

2) Competition advocacy

- Fostering a competition culture
 - Publishing market studies
 - Issuing Recommendations
 - Exercising deterrence as a result of infringement decisions
-

2. ORGANISATION / PRIORITIES

➔ OPPORTUNITY PRINCIPLE

- ✓ **Article 7 of the new Competition Act (Law 19/2012, of 8 May): “opportunity principle”**
- ✓ **Although recognised by the European Court of Justice as a guiding principle for the European Commission since the 1992 jurisprudence on the issue, the opportunity principle had to wait 20 years to be introduced into the Portuguese legal system, and did so thanks to the new Competition Act**
- ✓ **The opportunity principle requires that the PCA annually sets its priorities for the next year**

2. ORGANISATION / PRIORITIES

➔ **For the first time, annual priorities were set for 2013 under three headings:**

- A. Optimizing the PCA's work on competition enforcement and advocacy**
- B. Contributing to effective application of the new Competition Act**
- C. Reinforcing the PCA's capacity to act**

2. ORGANISATION / PRIORITIES

➡ **Priorities for 2013:**

A. Optimizing the PCA's work on competition enforcement and advocacy

- 1) **Sanctioning powers**
 - a) **Fighting cartels**
 - b) **Fighting abuses of dominant positions**
- 2) **Supervision powers**
 - a) **Merger control**
 - b) **Payment cards**
 - c) **Sectors with effects on the economy across the board: telecoms, energy, and ports**

B. Contributing to effective application of the new Competition Act

- 1) **Work in close collaboration with the Public Prosecutor's Office and the new specialised court**
- 2) **Support the training of judges**
- 3) **Reassess the PCA's approach to abuse of dominance cases**

C. Reinforcing the PCA's capacity to act

- 1) **Adjust the organisation to ensure improved management of complaints**
 - 2) **Retain, recruit and train its staff members**
 - 3) **Develop career structures for its staff members**
 - 4) **Focus on the European Competition Network (ECN), the International Competition Network (ICN), and competition authorities in Portuguese speaking countries**
 - 5) **Take a more comprehensive approach to its Internet site**
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2. ORGANISATION / PRIORITIES

➔ CRITICAL ASPECTS FOR THE FUTURE OF THE PCA:

- 1) Right balance between legal and economic approaches**
- 2) Capacity to continue to be an institution which carries out advanced economic and empirical analysis**
- 3) Development of European and international interfaces as well as the interface with Portuguese speaking competition authorities**

CONTENTS

1. INTRODUCTION

2. ORGANISATION / PRIORITIES

3. COMPETITION ENFORCEMENT & ADVOCACY

4. COMPETITION NORMS

5. INTERNAL MANAGEMENT

6. COMPETITION IN PORTUGAL

7. CONCLUSION

3. COMPETITION ENFORCEMENT

➔ CASES: DEPARTMENTS AND PROCEEDINGS

Depart.	Powers	Cases
DPR	Sanctioning	Administrative offence proceedings for antitrust infringements <ul style="list-style-type: none">▪ Agreements and concerted practices▪ Abuse of a dominant position▪ Abuse of economic dependency
		Administrative offence proceedings for unfair trade practices
DCC	Supervision	Administrative proceedings for merger control
	Sanctioning	Administrative offence proceedings for merger control infringements
DJC		Defence of PCA decisions against appeals lodged in courts

➔ CASE PROCEEDINGS:

- **DPR and DCC: 10 first years, 2003-12, broken down into two 5-year cycles, 03-07 and 08-12 (see also Appendices 1 to 4)**
- **DJC: 5-year cycle 2008-2012**

3. COMPETITION ENFORCEMENT

➔ NECESSARY TO DISTINGUISH

- 1) *Competition infringements* – articles 9, 11 or 12 of the Portuguese Competition Act (CA) or articles 101 or 102 of the Treaty on the Functioning of the European Union (TFEU):
 - a) Agreements or concerted practices between undertakings or associations of undertakings (articles 9 CA or 101 TFEU)
 - b) Abuse of a dominant position (articles 11 CA or 101 TFEU)
 - c) Abuse of economic dependency (article 12 CA)

- 2) *Unfair trade practices* – Decree-Law 370/93, of 29 October):
 - a) Infringements to specific legislation, not violations of the Competition Act or articles 101 or 102 TFEU
 - b) Infringement decisions concerning practices such as below cost sales require intervention by ASAE (detection and notice) and by the PCA (administrative offence proceedings, infringement decision, and defence of decision in court if an appeal is lodged)
 - c) New legislation is foreseen for 2013, and this will transfer all responsibilities on unfair trade practices to ASAE

3. COMPETITION ENFORCEMENT

➔ MERGER CONTROL

1. Notification criteria (*supervision powers*)

A. Market share threshold (MS) “less strict”

- ✓ Acquisition, creation or reinforcement $MS \geq 50\%$
- ✓ Acquisition, creation or reinforcement $30\% \leq MS < 50\%$, if the individual turnover of at least 2 undertakings $> € 5 \text{ M€}$

B. Turnover threshold

- ✓ Aggregate turnover of all undertakings: $\geq 100 \text{ M€}$
- ✓ Individual turnover of at least 2 undertakings: $\geq 5 \text{ M€}$

2. Infringements in merger control (*sanctioning powers*)

- ✓ No notification
 - ✓ Merger implementation before non-opposition decision
 - ✓ Lack of compliance with commitments
 - ✓ No information or false, inaccurate or incomplete information
-

3. COMPETITION ENFORCEMENT

➔ Infringements to the Competition Act

(number of cases)	2003-07	2008-12	Change
Opened	93	61	-32
Concluded	34	101	67
Infringement decisions	13	18	5
Dismissed	21	83	62

➔ Unfair trade practices (DL n.º 370/93)

(number of cases)	2003-07	2008-12	Change
Sent by ASAE	468	313	-155
Concluded	369	295	-74
Infringement decisions	146	189	43
Dismissed	24	66	42
Statute of limitations	199	40	-159

3. COMPETITION ENFORCEMENT

➔ **Average time limit in antitrust proceedings:**

(In years)	2009	2010	2011	2012
Antitrust cases	4.2	4.1	2.3	2.1

3. COMPETITION ENFORCEMENT

➔ Merger control decisions

	Number of mergers			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Authorized	285	263	548	52%	48%	100%
Prohibited/Withdrawn	7	8	15	47%	53%	100%
TOTAL	326	286	612	53%	47%	100%
As a percentage						
Authorized	87%	92%	90%			
Prohibited/Withdrawn	2%	3%	2%			
TOTAL	100%	100%	100%			

3. COMPETITION ENFORCEMENT

➔ Average time limit in merger control proceedings:

(In months)	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Notified mergers	n.d.	n.d	2.1	1.9	1.8	1.6	1.5	1.6	1.7	1.6
Authorized in 1st phase without commitments	n.d.	n.d	1.5	1.4	1.4	1.3	1.3	1.2	1.2	1,3

3. COMPETITION ENFORCEMENT

➔ Cases heard in courts

	2008	2009	2010	2011	2012 *	Average 2008-2012
New cases	19	33	44	28	41	33
Law 18/2003	12	12	2	11	12	10
DL 370/93	7	21	42	17	29	23
Cases decided	41	12	29	37	35	31
Law 18/2003	7	0	1	4	11	5
DL 370/93	34	12	28	33	24	26
Cases pending	103	83	76	89	91	88
Law 18/2003	36	10	12	32	27	23
DL 370/93	67	73	64	57	64	65

* Law 18/2003 and Law 19/2012

3. COMPETITION ENFORCEMENT

➔ Fees charged and fines imposed and collected

	In millions of euros			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Merger control fees	5.3	4.6	9.9	54%	46%	100%
Fines imposed	61.7	117.3	179.0	34%	66%	100%
Fines collected	3.0	5.5	8.5	35%	65%	100%
<i>Memory item:</i>						
Collected / Imposed	4.8%	4.7%	4.7%			

3. COMPETITION ENFORCEMENT

➔ Fines imposed

	In millions of euros			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Fines imposed	61.7	117.3	179.0	34%	66%	100%
Competition rules	59.9	115.2	175.1	34%	66%	100%
Unfair trade practices	1.8	1.9	3.7	48%	52%	100%
Mergers	0.0	0.1	0.1	0%	100%	100%

3. COMPETITION ENFORCEMENT

➔ Global Competition Review Rating Enforcement 2012

- ✓ This *rating* assesses the overall performance of competition authorities, for which
 - The PCA has been rated 3 stars (good) since 2007
 - Summary of the 2012 rating concerning 2011
 - ✓ *There is unequivocal respect and praise for the authority's merger control regime, which several lawyers describe as world class.*
 - ✓ *If the authority's behavioural work (antitrust enforcement) can match its sterling merger control reputation, lawyers will talk about it for all the right reasons.*

3. COMPETITION ENFORCEMENT

➡ Global Competition Review Rating Enforcement 2006-11*

	2006	2007	2008	2009	2010	2011
Belgium	2.5	2.5	2.5	2.5	2.5	2.5
Ireland	3.5	3.5	3	2.5	2.5	2.5
Portugal	3.5	3	3	3	3	3
Austria	3	3	3	3	3	3
Sueden	3	3	3	3	3	3
Denmark	3.5	3.5	3.5	3.5	3	3
Finland	3.5	3.5	3.5	3.5	3	3
Netherlands	3.5	3.5	3.5	3.5	4	4
Spain	3	3	3.5	3.5	4	4
DGCOMP	5	5	5	5	5	5

* 5 = Elite, 4 = Very Good, 3 = Good, 2 = Fair

3. COMPETITION ENFORCEMENT

➡ **Global Merger Control Index (GMCI) for 2011**

- ✓ **This index assesses the performance of competition authorities in the field of merger control**
 - **The PCA is in 4th place among 71 counterparts worldwide**
 - **The PCA is in 3rd place among 27 Member States of the European Union**

3. COMPETITION ENFORCEMENT

➔ Highlights

1) Decisions taken for the first time by the PCA

- a) **2009: First interim measure**
- b) **2010: First appeal lodged by the PCA against the ruling by the court of 1st instance (Commercial Court of Lisbon) which did not uphold the PCA decision in a case of abuse of dominance. The court of 2nd instance (Lisbon Appellate Court) uphold the ruling by the court of 1st instance**
- c) **2010: First request by the PCA to the Lisbon Appellate Court (court of 2nd instance, *Tribunal da Relação de Lisboa*) to refer to the Court of Justice of the European Union for a preliminary ruling on a case of abuse of dominance. The Lisbon Appellate Court ruled not to refer to the Court of Justice.**

3. COMPETITION ENFORCEMENT

➡ Highlights

1) Decisions taken for the first time by the PCA

- d) **2010: First infringement decision in a cartel case under the leniency regime requested by an individual with fines imposed on individuals as well as undertakings**
- e) **2011: First infringement decision in a cartel case under the leniency regime requested by an undertaking**
- f) **2012: First infringement decision for no notification of a merger**

3. COMPETITION ENFORCEMENT

➔ Highlights

2) Antitrust cases, 08-12 vs 03-07

- a) Fewer cases opened (– 32)
- b) More cases concluded (+ 67)
- c) More infringement decisions (+ 5)
- d) More cases dismissed (+ 62)
- e) In conclusion: a very dynamic portfolio of cases with no backlog

3) Unfair trade practices, 08-12 vs 03-07

- a) Fewer cases sent by ASAE to the PCA (– 155)
- b) More infringement decisions (+ 43)
- c) More cases dismissed (+ 42)
- d) Fewer cases coming under the statute of limitations (– 159)

3. COMPETITION ENFORCEMENT

➔ Highlights

4) Merger control, 08-12 vs 03-07

- a) Quantitative terms: fewer cases
- b) Qualitative terms: no merger notifications like the two biggest in 2003-07 (BPI/BCP and PT/Sonaecom),
- c) Performance increasingly swift, objective and predictable

5) Fines imposed, 08-12 vs 03-07

- a) Amount of fines imposed: almost the double (117 M€ vs 62 M€)
- b) Fines imposed for unfair trade practices: similar amount (1.9 M€)
- c) First fine for no notification of a merger (0.149 M€)
- d) Ratio “Fines collected/Fines imposed”: similar in both periods (less than 5%)

6) International ratings

- a) Global Competition Review Enforcement Rating: 3 stars since 2007, as Austria and Sweden and more recently Denmark and Finland
- b) Global Merger Control Index: 4th among 71 authorities worldwide in 2011

3. COMPETITION ADVOCACY

➔ THREE AREAS OF ACTIVITIES

A. Economic analysis and market studies and sectoral analysis

✓ See Appendix 5

B. Institutional cooperation and competition advocacy

✓ See Appendix 5

C. International activity

✓ See Appendix 5

CONTENTS

1. INTRODUCTION
2. ORGANISATION / PRIORITIES
3. COMPETITION ENFORCEMENT & ADVOCACY
4. COMPETITION NORMS
5. INTERNAL MANAGEMENT
6. COMPETITION IN PORTUGAL
7. CONCLUSION

4. COMPETITION NORMS

➔ LEGAL AND REGULATORY AMENDMENTS

1. **Drafting the project of the new competition legal regime, which led to the new Competition Act (Law 19/2012, of 8 May)**
2. **Drafting and approval of the PCA regulations and guidelines complementary to the new Competition Act**
 - ✓ **2 Regulations and 5 Guidelines**
3. **Participation in the negotiations on competition issues included in the Memorandum of Understanding on specific economic conditionality, May 2011, signed between Portugal and the Troika (EC/ECB/IMF) and in the seven reviews so far**

4. COMPETITION NORMS

➔ 2 SETS OF LEGAL DOCUMENTS

1. PCA BY-LAWS

- Decree-Law 10/2003, of 18 January 2003
- To be amended after the approval of the Framework Law for National Regulatory Authorities

2. NEW LEGAL FRAMEWORK FOR COMPETITION

- Law 19/2012, of 8 May (new Competition Act)
- PCA Regulations 1/2013 and 60/2013 published in the Official Journal of the Portuguese Republic (*Diário da República*)
- PCA Guidelines

4. COMPETITION NORMS

➔ Regulations that complement the new Competition Act

- 1) Regulation 1/2013, Official Journal, 2nd series, 3 January 2013
 - Leniency Regulation
 - Information Notice on the Leniency Regime
- 2) Regulation 60/2013, Official Journal, 2nd series, 14 February 2013
 - Regulation on the new merger control notification forms

➔ Guidelines that complement the new Competition Act

- 1) Guidelines on the method of setting fines imposed pursuant to article 69 (8) of Law 19/2012, of 8 May
 - 2) Guidelines on prior appraisal in merger control
 - 3) Guidelines on priorities in the exercise of sanctioning powers pursuant to article 7 (1) and (2) of Law 19/2012, of 8 May
 - 4) Guidelines on procedures for the application of articles 9, 11 and 12 of Law 19/2012, of 8 May, and of articles 101 and 102 TFUE (*being finalized for approval after the public consultation*)
 - 5) Guidelines on the economic analysis of horizontal mergers (*in public consultation from 1 February to 2 May 2013*)
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CONTENTS

- 1. INTRODUCTION**
- 2. ORGANISATION / PRIORITIES**
- 3. COMPETITION ENFORCEMENT & ADVOCACY**
- 4. COMPETITION NORMS**
- 5. INTERNAL MANAGEMENT: BUDGET OUTTURN**
- 6. COMPETITION IN PORTUGAL**
- 7. CONCLUSION**

5. BUDGET OUTTURN

➔ PCA budget outturn, 2008 - 2012

(In millions of euros)		2008	2009	2010	2011	2012
(1)	Budget	9.6	12.5	10.7	8.9	7.2
(2)	Outturn	8.4	9.1	8.6	7.5	6.4
Budget consolidation						
(3) = (2) - (1)	In millions of euros	-1.2	-3.3	-2.2	-1.5	-0.8
(4) = (3) / (1)	As a percentage	-12%	-27%	-20%	-16%	-11%
Rate of change						
(5)	Budget		30%	-14%	-17%	-19%
(6)	Outturn		8%	-6%	-13%	-14%

CONTENTS

- 1. INTRODUCTION**
- 2. ORGANISATION / PRIORITIES**
- 3. COMPETITION ENFORCEMENT & ADVOCACY**
- 4. COMPETITION NORMS**
- 5. INTERNAL MANAGEMENT: REGULATIONS**
- 6. COMPETITION IN PORTUGAL**
- 7. CONCLUSION**

5. INTERNAL REGULATIONS

- ➔ **Until 2007, the PCA had a single internal regulation document: the Code of Conduct, approved in 2007**
- ➔ **Between 2008 and 2012, a thorough *institution building* was carried out in order to provide the PCA with a comprehensive set of internal rules and regulations necessary to the functioning of a modern, well organised institution (see Appendix 6)**
 - **Regulations (13) + Manuals, Procedures, Contingency Plans (12)**
 - **Software for case work and for financial and administrative control (4)**
- ➔ **The drafting and approval of all these documents made it possible to fill the previous gap in the PCA internal organisation**

CONTENTS

- 1. INTRODUCTION**
- 2. ORGANISATION / PRIORITIES**
- 3. COMPETITION ENFORCEMENT & ADVOCACY**
- 4. COMPETITION NORMS**
- 5. INTERNAL MANAGEMENT: HUMAN RESOURCES**
- 6. COMPETITION IN PORTUGAL**
- 7. CONCLUSION**

5. HUMAN RESOURCES

PCA staff, 2007-2012

(Number)	2007	2008	2009	2010	2011	2012
Board and managers	8	14	16	16	16	16
Specialised staff*	63	52	57	55	48	49
Tecn. + Admn. + Aux.	16	14	21	20	17	20
TOTAL	87	80	94	91	81	85

* Includes competition experts, lawyers and economists specialised in competition law and economics

5. HUMAN RESOURCES

PCA staff cost, 2007-2012

	2007	2008	2009	2010	2011	2012
Total (million €)	5.4	6.0	6.6	6.4	5.6	4.5
Rate of change		11.7%	9.7%	-2.8%	-13.4%	-19.2%
Per capita (thousand €)	62.0	75.3	70.4	70.7	68.8	53.0
Rate of change		21.4%	-6.6%	0.5%	-2.7%	-23.0%

5. HUMAN RESOURCES

➔ Highlights

- 1) **Desirable to reach a total of about 115 staff members with two key features:**
 - a) **Maintain parity between the number of lawyers and economists**
 - b) **Maintain and expand the nucleus of highly qualified economists capable of working in a multidisplinary environment**
 - 2) **PCA By-laws**
 - a) **Amendments to the PCA by-laws are required in order to make it possible to manage its humam resources in accordance with the requirements of an institution whose excellence depends upon the skills, the dynamics and the motivation of its staff**
 - 3) **Strong investment in staff training**
 - a) **Between 3-5% of the staff budget**
 - b) **90% of training in international seminars/courses/conferences**
-

5. HUMAN RESOURCES

➔ Highlights

4) Staff performance evaluation

a) Quotas:

- ✓ “Merit or below” \geq 50% of the staff;
- ✓ “Relevant” \leq 35% of the staff
- ✓ “Outstanding” \leq 15% of the staff

b) Important for the management of human resources and performance bonus

5) International mobility objectives

- 4) One (or two) PCA competition experts as National Experts on secondment to the European Commission (DG COMP), for periods of 1 to 3 years, on a rotating basis
- 5) One (or more) competition expert from another competition authority on secondment at the PCA for periods of 1 to 3 years, on a rotating basis, similarly to what has become common practice with a number of counterparts, in particular the DGCOMP

5. HUMAN RESOURCES

➔ The greatest risk the PCA faces

✓ LOSS OF QUALIFIED STAFF

- To avoid this loss, it is necessary to make it possible for the PCA to recruit and manage its staff, within the limits set by its budget as approved by the government, but without the constraints that apply to the civil service and are not appropriate to an independent regulatory authority, which relies critically on the human capital it succeeds in recruiting, training, motivating and ultimately retaining.
- The PCA skilled staff members are highly “tradeable,” at home and abroad, even in times of crisis such as the current one

CONTENTS

1. INTRODUCTION
2. ORGANISATION / PRIORITIES
3. COMPETITION ENFORCEMENT & ADVOCACY
4. COMPETITION NORMS
5. INTERNAL MANAGEMENT
6. COMPETITION IN PORTUGAL
7. CONCLUSION

6. COMPETITION IN PORTUGAL

➔ REFORM OF THE 3 PILLARS OF COMPETITION

1. Normative pillar (*already concluded, except two guidelines*)

- ✓ New law (Law 19/2012)
- ✓ New PCA Regulations (2)
- ✓ New PCA Guidelines (5)

2. Executive pillar (*under way*)

- ✓ Framework Law for Regulatory Authorities
- ✓ PCA By-laws
- ✓ PCA: Sufficient and stable financing + Effective and sustainable operation

3. Judicial pillar (*under way*)

- ✓ Courts of appeal, in particular the new Comp., Reg. and Sup. Court (1st instance)
 - ✓ Functioning of courts of appeal (1st and 2nd instances, Constitutional Court)
-

6. COMPETITION IN PORTUGAL

➔ NEW LAW: 3 GOALS

- 1) **To increase legal certainty in its interpretation and application and to make competition enforcement more predictable**
- 2) **To harmonise with EU legislation and jurisprudence, to follow international best practices, and to comply with MoU**
- 3) **To increase the effectiveness of PCA decisions on competition enforcement and advocacy (+ speed + efficiency + transparency)**

6. COMPETITION IN PORTUGAL

➔ NECESSARY CONDITIONS FOR COMPETITION ENFORCEMENT

- 1) The new legal framework for competition already in force, practically harmonized with that of the European Union.
 - ✓ Portugal being a Member State of the EU and the goal to pursue being the degree of competition of the most advanced European economies, harmonization with the EU legal framework is a must
 - ✓ The recent dawn raid on banks would have been difficult to carry out under the previous law
- 2) The new Framework Law for Regulatory Authorities and the new PCA By-laws, if they ensure – *de jure* and *de facto* – the PCA autonomy in staff, administrative and financial matters

6. COMPETITION IN PORTUGAL

➔ **NECESSARY CONDITIONS FOR COMPETITION ENFORCEMENT**

- 3) **The quality of the PCA's human capital and the relevance of its portfolio of cases with no backlog**
- 4) **The functioning of the courts of appeal. Examples like the one presented in the next slide shall never happen again**

6. COMPETITION IN PORTUGAL

- ➡ **Portugal Telecom (PT) case, infringement decision, 28 August 2008**
 - ✓ Abuse of a dominant position through discriminatory pricing
 - ✓ Fine imposed: € 2,1 million
 - ✓ 29 November 2008: PT appeal and PCA counterclaim lodged with the court of 1st instance (*Tribunal de Comércio de Lisboa, TCL*)
 - ✓ 16 May 2011: PCA request for fast track proceedings by the TCL
 - ✓ 15 February 2012: beginning of court hearings
 - ✓ 29 February 2012: not guilty sentencing by the TCL
 - ✓ 7 March 2012: PCA appeal lodged with the court of 2nd instance
 - ✓ 8 March 2012: statute of limitation
 - ➡ **3 years, 2 months e 15 days without any court activity, between Nov. 2008 (appeal lodged with TCL) and Feb. 2012 (beginning of court hearings)**
 - ➡ **8 days between 29.02.2012 (sentencing TCL) and 08.03.2012 (statute of limitation)**
-

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

- 1) Competition culture
- 2) PCA remit: what it can and cannot do
- 3) Access to essential facilities
- 4) Interoperability in network industries
- 5) Regulated prices formation
- 6) “Prices go up or are the same” versus “prices go down or are different”
- 7) Tradeable goods price volatility
- 8) Buyer power
- 9) Abuse of dominance and economic evidence
- 10) Microeconomic statistics & greater transparency in price formation

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

1) Competition culture

- ✓ Depends on competition enforcement, through the deterrence effect, and competition advocacy (see Appendix 5)
- ✓ Constrained by economic policy and sectoral regulation if these are not *competition-friendly*
- ✓ Competition culture under the rule of law shall never imply inversion of the burden of proof
- ✓ Ultimate goal: the welfare of consumers and competitive market equilibria

6. COMPETITION IN PORTUGAL

➡ What lessons for competition in Portugal?

2) PCA remit: what can do and cannot do?

- ✓ It can do competition enforcement and advocacy according to its remit
- ✓ It cannot do what exceeds its remit (see next slide)

6. COMPETITION IN PORTUGAL

➔ ACTIONS THAT EXCEED THE PCA's REMIT

There is no PCA action that can directly address competition shortcomings in the marketplace which are not infringements to competition law, but result instead from

- ✓ **Market failure**
 - ✓ **Unfair competition**
 - ✓ **Structural changes deriving from lack of business competitiveness (exit from the domestic market, bankruptcies, ...)**
 - ✓ **Imbalances in bargaining powers in the absence of a dominant position**
 - ✓ **Tradable goods price volatility**
 - ✓ **Sectoral regulation**
 - ✓ **Economic policy decisions (example: privatisation models)**
-

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

3) Access to essential facilities

- ✓ Important to understand what an essential facility is
- ✓ Ensure access to competitors
- ✓ Important to avoid abuse of dominance
- ✓ Example of a unique public infrastructure: *Pavilhão Atlântico* in Lisbon, the only closed special events venue for more than 7,000 spectators in Portugal that was privatised after a a merger control approval with remedies in second phase

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

4) Interoperability in network industries

- ✓ Mobility clauses and switching costs
- ✓ Exclusivity clauses
- ✓ Two-sided markets
- ✓ Exchange of information
 - Between operators on the functioning of the network
 - Exchange of commercial sensitive information

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

5) Regulated prices formation

- ✓ Do regulated prices address a market failure?
- ✓ What is the extra price for consumers or the extra tax burden for tax payers?
- ✓ Is it possible to reach the objectives pursued by regulated prices with less incentives or fewer distortions to market prices?

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

6) “Prices go up or are the same” / “Prices go down or are different”

✓ Market conditions:

- Homogeneous or differentiated products?
- Suppliers have complete or incomplet market information?
- Tradeable goods or not?
- Tradeable distribution network or not?
- Big volumes and small margins or small volumes and bigger margins?
- “Price competition” versus “non-price competition”?

✓ Price convergence?

✓ Economics of competition is not as simple as follows

- “Prices go up or are the same” = Cartel
- “Prices go down or are different” = Competition

6. COMPETITION IN PORTUGAL

➡ What lessons for competition in Portugal?

7) Tradeable goods price volatility

- ✓ Small open economy (*price taker*)
 - ✓ Fundamental equality to monitor
$$\text{Import price} = \text{Ex-factory price}$$
 - ✓ Domestic prices: levels versus rates
 - ✓ Price level: is a function of (i) international components (international price and exchange rate), and (ii) domestic components (distribution and taxes)
 - ✓ Price change: if domestic components are stable, it depends on change in international components
 - ✓ If international price changes, is it possible to stabilise the domestic price? No, unless the price is regulated
 - ✓ *Memorandum of Understanding*: liquid fuels (no reference) versus electricity or natural gas (15 measures)
-

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

8) Buyer power

- ✓ It is not a competition infringement *per se*
- ✓ In the absence of concerted practices or abuse of dominance, imbalances in bargaining power that generate tensions arising from (i) unilateral imposition of terms and conditions, (ii) retroactive discounts, (iii) payment terms, or (iv) penalties for suppliers only, have to be addressed by entities other than the PCA with powers different from those included in the PCA remit

6. COMPETITION IN PORTUGAL

➡ What lessons for competition in Portugal?

9) Abuse of dominance and economic evidence

- ✓ A dominant position is not a competition infringement, only abuse of dominance
- ✓ In the absence of a dominant position, there cannot be abuse of dominance
- ✓ Infringement that needs economic evidence
- ✓ Acceptance of economic evidence by the courts

6. COMPETITION IN PORTUGAL

➔ What lessons for competition in Portugal?

10) Microeconomic statistics & greater transparency in price formation

- ✓ Fundamental to monitor markets
- ✓ Essential to strengthen the capacity of the National Statistical Office to produce microeconomic statistics on key sectors
- ✓ Example to follow: banking statistics (monetary and financial, payment system, central credit registrar) and statistics on non-financial corporations by the Bank of Portugal
- ✓ Introduction of mechanisms that allow greater transparency in price formation, for example, along the food supply chain, the cork sector, ...

CONTENTS

- 1. INTRODUCTION**
- 2. ORGANISATION / PRIORITIES**
- 3. COMPETITION ENFORCEMENT & ADVOCACY**
- 4. COMPETITION NORMS**
- 5. INTERNAL MANAGEMENT: REGULATIONS**
- 6. COMPETITION IN PORTUGAL**
- 7. CONCLUSION**

7. CONCLUSION

➔ FINAL ASSESSMENT

✓ Performance

- In competition enforcement and advocacy
- In the contribution to the new legal framework for competition
- In the very institution building of the PCA

✓ Public interest

- Professionalism, impartiality, independence
- Intellectual integrity, analytical rigour, respect for empirical evidence
- Determination in staying the course

7. CONCLUSION

➔ PCA “SHORT” IN HUMAN CAPITAL

- ✓ It would be “very cheap” for the PCA budget
- ✓ It would be “very expensive” for competition enforcement

7. CONCLUSION

➔ COMPETITION IN PORTUGAL

✓ Goal:

- Economy made up of competitive markets in line with best practices in the European Union

✓ Focus:

- Competition enforcement (infringements, mergers)
- Reduction/elimination of “shadow barriers” to competition

7. CONCLUSION

➔ COMPETITION IN PORTUGAL

✓ Roadmap:

- **Until the end of the economic adjustment programme**
 - **MoU structural reforms**
 - **PCA competition enforcement and advocacy performance**
- **After the end of the programme**
 - **Competition culture that will prevail and the competition-friendly economic policies that will be pursued afterwards**
 - **PCA competition enforcement and advocacy**

APPENDIX 1. ANTITRUST CASES

A1. ANTITRUST CASES

➔ Cases involving infringement of competition rules

	Number of cases			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Opened	93	61	154	60%	40%	100%
Concluded	34	101	135	25%	75%	100%
Infring. decisions	13	18	31	42%	58%	100%
Dismissed	21	83	104	20%	80%	100%
TOTAL	127	162	289	44%	56%	100%
As a percentage						
Opened	73%	38%	53%			
Concluded	27%	62%	47%			
Infring. decisions	10%	11%	11%			
Dismissed	17%	51%	36%			
TOTAL	100%	100%	100%			

A1. ANTITRUST CASES

➔ Cases dismissed

	Number of cases			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Cases dismissed	21	83	104	20%	80%	100%
C *	2	8	10	20%	80%	100%
NC *	19	75	94	20%	80%	100%
	As a percentage					
Cases dismissed	100%	100%	100%			
C	10%	10%	10%			
NC	90%	90%	90%			

* C, with conditions imposed by the PCA; NC, no conditions

A1. ANTITRUST CASES

➔ Infringement decisions involving violations of competition rules *

	Number of cases			As a percentage		
	2004-07	2008-12	2004-12	2004-07	2008-12	2004-12
Agreements	7	8	15	47%	53%	100%
Decisions of associations of undertakings	4	5	9	44%	56%	100%
Concerted practices	1	2	3	33%	67%	100%
Abuse of a dominant position	1	4	5	20%	80%	100%
Abuse of economic dependency	0	0	0	0%	0%	0%
TOTAL	13	19	32	41%	59%	100%

* In 2003, there was no infringement decision. In 2010, there was an infringement decision simultaneously for concerted practices and abuse of dominance

A1. ANTITRUST CASES

➔ Antitrust cases

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Opened	8	36	30	13	6	13	14	8	17	9
Concluded	0	5	6	9	14	24	21	29	14	13
With fines	0	1	5	4	3	3	4	5	2	4
Dismissed	0	4	1	5	11	21	17	24	12	9
C *	0	1	0	0	1	5	1	1	0	1
NC *	0	3	1	5	10	16	16	23	12	8

* C, with conditions imposed by the PCA; NC, no conditions

A1. ANTITRUST CASES

➔ Infringement decisions relating to antitrust violations *

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Agreements	1	2	2	2	1	1	2	1	3
Decisions by associations of undertakings	0	3	1	0	1	1	3	0	0
Concerted practices	0	0	1	0	0	1	0	1	0
Abuse of a dominant position	0	0	0	1	1	1	1	0	1
Abuse of economic dependency	0	0	0	0	0	0	0	0	0
TOTAL	1	5	4	3	3	4	6	2	4

* In 2003, there were no infringement decisions. In 2010, there is a simultaneous infringement decision for concerted practices and abuse of dominance

APPENDIX 2. UNFAIR TRADE PRACTICES

A2. UNFAIR TRADE PRACTICES

➔ Unfair trade practices cases (Decree Law 370/93)*

	Number of cases			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Sent by ASAE	468	313	781	60%	40%	100%
Concluded	369	295	664	56%	44%	100%
Infringement decisions	146	189	335	44%	56%	100%
Dismissed	24	66	90	27%	73%	100%
Statute of limitations	199	40	239	83%	17%	100%
	As a percentage					
Sent by ASAE	127%	106%	118%			
Concluded	100%	100%	100%			
Infringement decisions	40%	64%	50%			
Dismissed	7%	22%	14%			
Statute of limitations	54%	14%	36%			

* Unfair trade practices are not infringements to the Competition Act or articles 101 and/or 102 TFEU

A2. UNFAIR TRADE PRACTICES

➔ Cases relating to unfair trade practices (DL no. 370/93)*

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Sent by ASAE	169	119	102	56	22	46	75	48	44	100
Concluded	0	14	12	181	162	17	43	95	65	75
Infring. dec.	0	6	7	16	117	11	32	67	33	46
Dismissed	0	4	5	13	2	6	5	21	26	8
SL **	0	4	0	152	43	0	6	7	6	21

* Unfair trade practices are not violations of the Competition Act

** SL, Statute of limitations

APPENDIX 3. MERGER CONTROL

A3. MERGER CONTROL

➔ Merger control decisions *

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1st phase, A, NC	30	35	68	53	78	58	43	53	43	51
A, C	1	2	1		3	5		2	3	
2nd phase, A, NC			1	1	1	1			1	
A, C		5	1	2	3	2				1
Inapplicability	12	3	6	7	4	2	4	2	2	4
Prohibited			2	1			1	1		
Withdrawn **		1		2	1		2		1	3**
Referred to the EC ***	1				1			1		
TOTAL	44	46	79	66	91	68	50	59	50	59
Memory items:										
Initiate 2nd phase	1	6	6	6	1	4	1		3	2
Prior appraisal					13	6	7	14	8	2

* A, authorized; NC, no commitments; C, commitments

** One merger withdrawn in the 1st phase, two mergers withdrawn in the 2nd phase

*** EC, European Commission

A3. MERGER CONTROL

➔ Merger control decisions

	Number of mergers			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Authorized	285	263	548	52%	48%	100%
Inapplicability	32	14	46	70%	30%	100%
Prohibited *	3	2	5	60%	40%	100%
Withdrawn	4	6	10	40%	60%	100%
Referred to EC	2	1	3	67%	33%	100%
TOTAL	326	286	612	53%	47%	100%
<i>Memory item:</i>						
Prior appraisal	13	37	50	26%	74%	100%

* Includes merger 41/2009 – Ongoing/Prisa/Media Capital, which was not prohibited under the provisions of the Competition Act, but could not take place because of a negative binding opinion by ERC, the Portuguese Media Regulatory Authority

A3. MERGER CONTROL

➔ Merger control decisions

	Number of mergers			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Authorized	285	263	548	52%	48%	100%
1st phase	271	258	529	51%	49%	100%
2nd phase	14	5	19	74%	26%	100%
	As a percentage					
Authorized	100%	100%	100%			
1st phase	95%	98%	97%			
2nd phase	5%	2%	3%			

A3. MERGER CONTROL

➔ Merger control decisions *

	Number of mergers			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Authorized 1st phase	271	258	529	51%	49%	100%
NC	264	248	512	52%	48%	100%
C	7	10	17	41%	59%	100%
Authorized 2nd phase	14	5	19	74%	26%	100%
NC	3	2	5	60%	40%	100%
C	11	3	14	79%	21%	100%
	As a percentage					
Authorized 1st phase	100%	100%	100%			
NC	97%	96%	97%			
C	3%	4%	3%			
Authorized 2nd phase	100%	100%	100%			
NC	21%	40%	26%			
C	79%	60%	74%			

* NC = No commitments; C = Commitments

A3. MERGER CONTROL

➔ Merger control decisions *

	Number of mergers			As a percentage		
	2003-07	2008-12	2003-12	2003-07	2008-12	2003-12
Authorized	285	263	548	52%	48%	100%
1 st phase, NC	264	248	512	52%	48%	100%
C	7	10	17	41%	59%	100%
2 nd phase, NC	3	2	5	60%	40%	100%
CC	11	3	14	79%	21%	100%
Inapplicability	32	14	46	70%	30%	100%
Prohibited	3	2	5	60%	40%	100%
Withdrawn	4	6	10	40%	60%	100%
Referred to the EC **	2	1	3	67%	33%	100%
TOTAL	326	286	612	53%	47%	100%
<i>Memory items:</i>						
Initiate 2 nd phase	20	10	30	67%	33%	100%
Prior appraisal	13	37	50	26%	74%	100%

* NC, no commitments; C, commitments

** EC, European Commission

APPENDIX 4. FEES AND FINES

A4. FEES AND FINES

➔ Fees charged and fines imposed and collected

(In thousands of euros)	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Merger control fees	268	953	1,550	1,185	1,368	1,180	850	958	678	933
Fines imposed	60	4,000	16,340	1,238	40,037	16,891	77,797	3,491	683	18,416
Antitrust violations		3,950	16,271	1,161	38,493	16,761	77,376	2,951	326	17,786
Unfair trade practices	60	50	69	78	1,544	130	421	540	357	480
Merger violations										149
Fines collected	136	111	1,758	95	890	3,199	61	518	407	1,306

APPENDIX 5. COMPETITION ADVOCACY

A5. COMPETITION ADVOCACY

A. Economic analysis and market studies and sectoral analysis

- ➔ Research and knowledge-sharing seminars
- ➔ Sectoral analysis on liquid fuels and bottled gas, electronic telecommunications, triple play market, energy, large retail distribution, cork sector, among others
- ➔ Contribution to PARCA (Platform to Monitor Commercial Relations along the food supply chain), initiative of the Portuguese Ministries of the Economy and of Agriculture, as a result of the recommendations of the 2010 PCA report on *Commercial relations between large distribution groups and their suppliers* and of several European Commission initiatives in which the PCA has participated
- ➔ Two visiting scholars, one from the University of Virginia, USA, in the Summer of 2008, and the other on a 6-month sabbatical leave from the Engineering School of Lisbon in 2010

A5. COMPETITION ADVOCACY

B. Institutional cooperation and competition advocacy

- ➡ **Cooperation with sectoral regulators**
- ➡ **Cooperation with the Centre for Judicial Studies**
- ➡ **Quarterly Competition and Regulation Review (C&R), in cooperation with the Law School of Lisbon, started in January 2010**
- ➡ **Cooperation with the Law School of the Catholic University of Lisbon, in particular for the organisation of the conference on the new Competition Act in July 2012, with the participation of the Vice-President and Commissioner for Competition Joaquin Almunia, and of the Portuguese Minister of the Economy Álvaro Santos Pereira and the Secretary of State to the Prime Minister Carlos Moedas**

A5. COMPETITION ADVOCACY

C. International activity

- ➔ Cooperation with ECN (*European Competition Network*), in particular DGCOMP, specifically as co-chair of the Working Group Cooperation Issues and Due Process as well as participation in other working groups (*cartel practice and policy, mergers, food supply chain, ...*)
- ➔ Cooperation with ICN (*International Competition Network*)
 - Co-chair of the *WG Advocacy*, in charge of the “Interim Report on the Project of Explaining the Benefits of Competition” and contributions to the “Market Studies Handbook” and to the road testing of this handbook
 - Organization of the ICN Annual Cartel Workshop in 2008
 - Active participation in the *Merger WG*, specifically on the drafting of documents such as *Recommended Practices for Merger Analysis*, *ICN Merger Guidelines Workbook* and *ICN Investigative Techniques Handbook for Merger Review*
- ➔ Information on international activities shared with all PCA departments through a monthly bulletin (*I–Informação*) & ICN teleseminars open to staff members who may be interested in attending

A5. COMPETITION ADVOCACY

C. International activity

- ➔ **Three international conferences (Lisbon Conferences on Competition Law and Economics, 2005, 2007 and 2010)**
- ➔ **Bilateral meetings between Portugal-Spain and Portugal-France, in Lisbon and Madrid and in Lisbon and Paris, respectively**
- ➔ **Two international Training Programmes of 1 or 2 weeks for staff members of other competition authorities: 2010 (Brazil) and 2011 (Turkey)**
- ➔ **Visits from counterparts: Brazil, China, Singapore, Turkey**

APPENDIX 6. INTERNAL REGULATIONS

A6. INTERNAL REGULATIONS

➔ Internal regulations and guidelines, 2008-2012

1)	RCA	Functioning of the Board of Directors
2)	REDES	Business travel
3)	REPEX – ECN	PCA participation in ECN activities
4)	TODE	Management positions
5)	VALOR	Training
6)	REGEST	PCA internships
7)	SAGE	Performance evaluation
8)	REGE	Internal organisation
9)	PRIDE	Performance bonus
10)	DOTEMPO	Working hours
11)	REDINF	PCA documentation and information centre
12)	RECRUTAR	Recruitment
13)	O-GRI/2010/01_EN	International Training Programme, PCA

A6. INTERNAL REGULATIONS

➔ **Manuals, Procedures and Plans, 2008-2012**

- 1) **Manual of procedures for absence from work (FALTAS)**
- 2) **WINTIME Manual for monitoring working hours**
- 3) **Manual of cash management**
- 4) **Manual of welcome and orientation guide**
- 5) **Manual of graphical settings**
- 6) **Manual of the PCA premises and rules for use (MUSE)**
- 7) **Prevention plan against corruption risks and related infringements**
- 8) **Manual of PCA vehicles use**
- 9) **Manual of First Aid Basic Notions**
- 10) **Manual of First Aid Procedures**
- 11) **Internal Emergency Plan (PEI)**
- 12) **Manual of Human Resources Management**

A6. INTERNAL REGULATIONS

➔ Software solutions, 2008-2012

1) SNEOC

- ✓ Tailor-made Merger Notification Electronic System (Outsystems technology)
- ✓ Distinguished with an Outsystems *Agility Award* in 2010

2) SIGAP

- ✓ Tailor-made software (Outsystems technology) for the analysis, processing and coordination of all case proceedings across all departments of the PCA
- ✓ Distinguished with an Outsystems *Agility Award* in 2012

3) PCA Extranet

- ✓ Tailor-made software (Outsystems technology) for the provision of PCA online services: notification of merger control, submission of complaints, access to file, making documentation relating to proceedings available, answers to requests for documents, monitoring of case proceedings, answers to questions on prohibited practices
- ✓ It is linked to the general government authentication software platform

4) ERP SINGAP

- ✓ QUIDGEST information system adusted for PCA financial, asset and human resources management
- ✓ Automatically updates information on public administration procedures, ensuring that organisational and legislative amendments trigger the necessary PCA internal adjustments

APPENDIX 7. HUMAN RESOURCES

A7. HUMAN RESOURCES

PCA staff, 2007-2012

(Number)	2007	2008	2009	2010	2011	2012
Board	3	3	3	3	3	3
Heads of departments	5	4	6	6	6	6
Deputy heads	0	6	6	6	6	6
Coordinators	0	1	1	1	1	1
Specialised staff *	63	52	57	55	48	49
Technical staff	6	5	6	7	5	5
Administrative staff	7	6	12	10	9	12
Auxiliary	3	3	3	3	3	3
TOTAL	87	80	94	91	81	85

* Includes competition experts, lawyers and economists specialised in competition law and economics

A7. RECURSOS HUMANOS

PCA staff, 2007-2012

<i>Number</i>	2007	2008	2009	2010	2011	2012
Board and Managers	8	14	16	16	16	16
Specialised staff *	63	52	57	55	48	49
Tecn. + Admn. + Aux.	16	14	21	20	17	20
TOTAL	87	80	94	91	81	85
<i>As a percentage</i>						
Board and Managers	9%	18%	17%	18%	20%	19%
Specialised staff *	72%	65%	61%	60%	59%	58%
Tecn. + Admn. + Aux.	18%	18%	22%	22%	21%	24%
TOTAL	100%	100%	100%	100%	100%	100%

* Includes competition experts, lawyers and economists specialised in competition law and economic

A7. HUMAN RESOURCES

Managers and specialised staff, cases and front offices,* 2008-2012

	2007 *	2008	2009	2010	2011	2012
<i>Number</i>						
Total	87	80	94	91	81	85
Managers and specialised staff	68	63	70	68	61	62
In the 3 cases departments **		41	46	45	40	40
In the 5 front offices ***		53	59	58	51	51
<i>As a percentage</i>						
Total	100%	100%	100%	100%	100%	100%
Managers and specialised staff	78%	79%	74%	75%	75%	73%
In the 3 cases departments **		51%	49%	49%	49%	47%
In the 5 front offices ***		66%	63%	64%	63%	60%
<i>Rate of change</i>						
Total		-8.0%	17.5%	-3.2%	-11.0%	4.9%
Managers and specialised staff		-7.4%	11.1%	-2.9%	-10.3%	1.6%
In the 3 cases departments **			12.2%	-2.2%	-11.1%	0.0%
In the 5 front offices ***			11.3%	-1.7%	-12.1%	0.0%

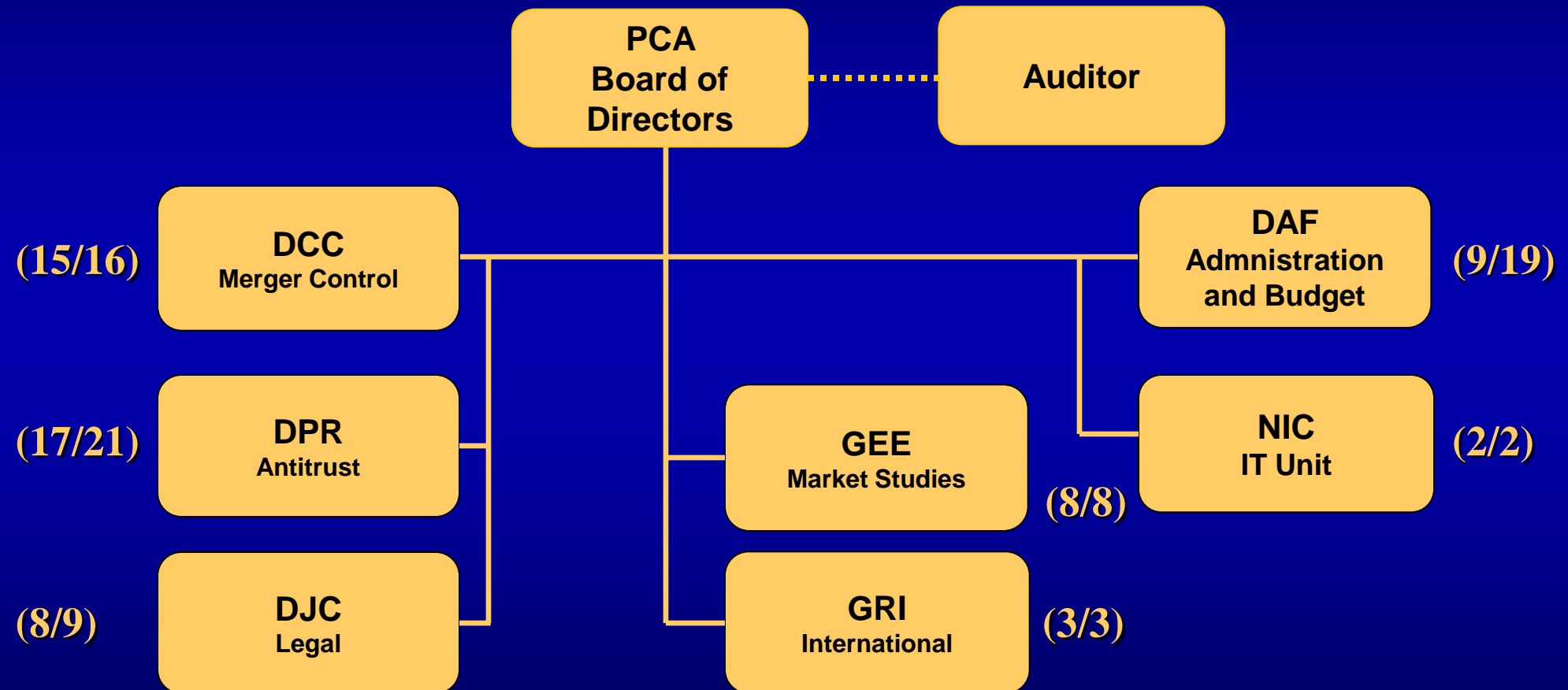
* The organisation in 3 cases departments and 5 front offices dates back to 2008

** DCC, DPR, DJC

*** DCC, DPR, DJC, GEE, GRI

5. HUMAN RESOURCES

Managers and Specialised Staff / Total per department, 2012



A7. HUMAN RESOURCES

Specialised staff, lawyers and economists, 2007 – 2012

	2007	2008	2009	2010	2011	2012
<i>Number</i>						
Total staff	87	80	94	91	81	85
Specialised staff	63	52	57	55	48	49
Lawyers	30	25	28	28	22	23
Economists	31	27	28	25	21	18
<i>As a percentage</i>						
Specialised staff	100%	100%	100%	100%	100%	100%
Lawyers	48%	48%	49%	51%	46%	47%
Economists	49%	52%	49%	45%	44%	37%
<i>Rate of change</i>						
Total staff		-8.0%	17.5%	-3.2%	-11.0%	4.9%
Specialised staff		-17.5%	9.6%	-3.5%	-12.7%	2.1%
Lawyers		-16.7%	12.0%	0.0%	-21.4%	4.5%
Economists		-12.9%	3.7%	-10.7%	-16.0%	-14.3%

A7. HUMAN RESOURCES

Staff breakdown by departments and categories, 2008

	Cons.	GDP	DCC	DPR	DJC	GEE	GRI	DAF	NIC	Total	In %
Board	3									3	4%
Managers			1	3	1	1	1	3	1	11	14%
Specialised staff			13	16	7	8	2	5	1	52	65%
Technical staff		2						2		4	5%
Administrative		1		2	1			3		7	9%
Auxiliary		2						1		3	4%
Total	3	5	14	21	9	9	3	14	2	80	100%
In %	4%	6%	18%	26%	11%	11%	4%	18%	3%	100%	
Manag. & Experts¹											
Cases depart.²										41	51%
Front offices³										53	66%

¹. Managers and Competition Experts

². DCC, DPR, DJC

³. DCC, DPR, DJC, GEE, GRI

A7. HUMAN RESOURCES

Staff breakdown by departments and categories, 2009

	Cons.	GDP	DCC	DPR	DJC	GEE	GRI	DAF	NIC	Total	In %
Board	3									3	3%
Managers			2	3	2	1	1	3	1	13	14%
Specialised staff			15	17	7	9	2	6	1	57	61%
Technical staff		3						3		6	6%
Administrative		1	1	4	1			5		12	13%
Auxiliary		2						1		3	3%
Total	3	6	18	24	10	10	3	18	2	94	100%
In %	3%	6%	19%	26%	11%	11%	3%	19%	2%	100%	
Manag. & Experts¹											
Cases depart.²										46	49%
Front offices³										59	63%

¹. Managers and Competition Experts

². DCC, DPR, DJC

³. DCC, DPR, DJC, GEE, GRI

A7. HUMAN RESOURCES

Staff breakdown by departments and categories, 2010

	Cons.	GDP	DCC	DPR	DJC	GEE	GRI	DAF	NIC	Total	In %
Board	3									3	3%
Managers			2	3	2	1	1	3	1	13	14%
Specialised staff			14	17	7	9	2	5	1	55	60%
Technical staff		4						3		7	8%
Administrative			1	4	1			4		10	11%
Auxiliary		2						1		3	3%
Total	3	6	17	24	10	10	3	16	2	91	100%
In %	3%	7%	19%	26%	11%	11%	3%	18%	2%	100%	
Manag. & Experts¹											
Cases depart.²										45	49%
Front offices³										58	64%

¹. Managers and Competition Experts

². DCC, DPR, DJC

³. DCC, DPR, DJC, GEE, GRI

A7. HUMAN RESOURCES

Staff breakdown by departments and categories, 2011

	Cons.	GDP	DCC	DPR	DJC	GEE	GRI	DAF	NIC	Total	In %
Board	3									3	4%
Managers			2	3	2	1	1	3	1	13	16%
Specialised staff			12	14	7	7	2	5	1	48	59%
Technical staff		2						3		5	6%
Administrative		2	1	3	1			4		11	14%
Auxiliary								1		1	1%
Total	3	4	15	20	10	8	3	16	2	81	100%
In %	4%	5%	19%	25%	12%	10%	4%	20%	2%	100%	
Manag. & Experts¹											
Cases depart.²										40	49%
Front offices³										51	63%

¹. Managers and Competition Experts

². DCC, DPR, DJC

³. DCC, DPR, DJC, GEE, GRI

A7. HUMAN RESOURCES

Staff breakdown by departments and categories, 2012

	Cons.	GDP	DCC	DPR	DJC	GEE	GRI	DAF	NIC	Total	In %
Board	3									3	4%
Managers			2	3	2	1	1	3	1	13	16%
Specialised staff			13	14	6	7	2	6	1	49	60%
Technical staff		2						3		5	6%
Administrative			1	4	1			6		12	15%
Auxiliary		2						1		3	4%
Total	3	4	16	21	9	8	3	19	2	85	100%
In %	4%	5%	20%	26%	11%	10%	4%	23%	2%	100%	
Manag. & Experts ¹											
Cases depart. ²										40	47%
Front offices ³										51	60%

¹. Managers and Competition Experts

². DCC, DPR, DJC

³. DCC, DPR, DJC, GEE, GRI