

**Advocacy as a Driver for Change: Strategies and approaches
of Advocacy for shaping the future**

- The Creation of a Special Unit for Competition Assessment -

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- Going beyond enforcement
- Efforts of the PCA as an advocate for pro-competitive reform
- Special Unit for Competition Assessment of Public Policies
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Going Beyond Enforcement

- The role of competition authorities must go well beyond enforcement
- A competition authority must simultaneously exert “hard power” and “soft power”
- Portugal is currently experiencing difficult economic times and is under an adjustment programme
- Competition has a central role to play in contributing to solid economic recovery and sustained economic growth
- Essential role of the competition authority in advising the government and other public bodies on how to make policies more pro-competitive or less harmful to competition
- Need for continuous, systematic and collaborative competition assessment of public policies

Efforts of the PCA as an advocate for pro-competitive reform (1)

- PCA active as an advocate for pro-competitive reform since its creation 10 years ago
- Market studies and sector inquiries in the use of its supervision powers
- Recommendations to government and other public bodies on policies that impair or distort competition
- Broad scope of activity, ranging from the pharmaceutical sector, to the liquid fuels and bottled gas sector, from the food chain industry, to the energy sector, from the telecoms and postal sectors to the cork industry
- In some cases, the PCA carried out in-depth market studies, with an overall characterisation of the market, the regulatory environment and the behaviour of market players
- In other cases, the PCA identified structural or behavioural circumstances that were negatively affecting competition in a given market, and made targeted recommendations to Government

Efforts of the PCA as an advocate for pro-competitive reform (2)

- Market studies and recommendations have been and will continue to be an essential advocacy tool for the PCA
- However, it is time to complement our advocacy efforts with a structured approach of competition assessment
- The new Board of the PCA appointed in September decided to create a special unit for the competition assessment of public policies showing our internal and external commitment to promoting competition assessment in Portugal
 - Reports directly to the Board
 - Two senior competition experts with vast experience in competition law and economics, and in competition enforcement

Special Unit for Competition Assessment of Public Policies

- Entrusted with the mission to implement a competition impact assessment procedure of public legislative and regulatory activities
- Responsibilities of the Unit
 - Promote the competition impact assessment of public policies
 - Follow legislative initiatives of the Parliament or the Government with an impact on competition
 - Address recommendations to the Government, sector regulatory authorities and other public entities on measures with an impact on competition
 - Contribute to the diffusion of a culture of continuous competitive impact assessment of public policies
 - Establish relations with national and international institutions under the topic of competition impact assessment

Implementation the Competition Impact Assessment in Portugal

- **Policy formulation**
 - Competition Assessment Guidelines
 - Drawing on the OECD Toolkit and on the experience of other EU competition authorities as well as the experience reflected in the on-going work at the ICN Advocacy Group
 - Internal capacity building at the PCA
- **Advocacy**
 - Institutional
 - Private stakeholders
 - Internal
 - Submitting draft guidelines to public consultation
- **Intervention**
 - Intervention in specific instances
 - Ex post intervention
- **Strategic Planning**

Why competition assessment?

- In the past, the PCA's activity in recommending pro-competitive reforms to public policies was effective, but limited in scope
- More systematic and thorough approach to assessing potential negative competitive effects of public policies (application of a checklist)
- Framework to analyse both existing and new legislation
- Integrate competition concerns into the policy-making process early (interaction between competition experts and policy-makers)

Competition assessment as a shared competence

- Competition assessment as a shared competence between the competition authority and government, and other public bodies
- **Capacity-building**
 - Competition assessment is ultimately the responsibility of policy-makers advised by competition experts
 - investment to developing in-house expertise in the competition authority, but also to bringing know-how about pro-competitive, and anti-competitive, policies to policy-makers
- **Relationships**
 - Typically, market studies and market monitoring do not allow for building long-term relationships of collaboration with policy-makers
 - developing relations with private stakeholders, including business associations and consumer organisations

Conclusion (1)

- PCA taking first steps in competition assessment in Portugal as an important complement to existing advocacy work
- Objectives of the Special Unit for Competition Assessment
 - Create in-house expertise
 - Building relationships
- Implementation of this programme will be a step-by-step approach
 - Choose strategic sectors and begin building relationships
 - Then aim at integrating competition assessment into the policy-making process

Conclusion (2)

- **Communication** – the public perception of the role of the competition authority
 - Creation of the Special Unit for Competition Assessment of Public Policies caught media attention
 - One headline read **“The PCA tackles public policies”**
 - Shows the thirst for scrutiny of public policies that promote a level playing field for business
- Reinforce the impact of the PCA on the Portuguese economy by contributing to a new impetus of the role of competition in public policy



Thank you!

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