

W@CompetitionIberia Conference

Opening Session

ICC Portugal, Lisbon, 8 May 2019

By Maria João Melícias

Introduction

Muito Bom dia a todos. Bem-vindos à 1.^a Conferência anual Women@CompetitionIberia. Let me start by saying how honoured and happy I am to be opening this event.

Like everything else in life, I truly believe that competition policy is better when enforced or promoted with diversity.

The AdC has championed from day one this great initiative which is Women@, founded by the positive energy and enthusiasm of a spectacular woman called Evelina Kurgonaite, a couple of years ago. The network is now gaining a life of its own with the creation of many regional clusters scattered across the world, notably in Portugal & Spain. Last fall we participated in the launch event of W@competitionIberia in Madrid, so it is very exciting to take part in the first annual conference here in Portugal.

The approach of Women@ is clear-cut and persuasive: it is about engaging society on the benefits of open markets with free competition for all, while empowering women to do so, and – in the case of W@CompetitionIberia – it also about fostering the long standing ties between Portugal & Spain. How? By simply holding substantive thought-provoking discussions on one of our favourite subjects: competition policy – like the one you will enjoy here today.

Of course, this initiative would not have taken place without the tireless effort of a few of you, so I would like first and foremost to congratulate the organizing team for putting together an excellent programme and line-up for today's conference and, also, for helping to put Women@ on the Portuguese map:

Franziska Zibold, Rita Vasconcelos, Sara Estima Martins, Tânia Luisa Faria and Leyre Prieto, from the Lisbon side; and Irene Moreno-Tapia and Julia Suderow, from the Spanish side - together with Sara Romano de Castro and Rita Malpique from the ICC team – they have been terrific.

These are just examples as I know there is a lot of additional “invisible” help: a true collective effort from the community allowing all this to happen.

Judges, economists, in-house counsels, university professors, lawyers, enforcers – i.e. members of the entire competition ecosystem in Iberia and beyond - will address throughout this day some of the hottest topics and challenges we are facing in the antitrust world.

Panel I - Fundamental rights and due process after ECN+: more certainty and less litigation

The impact of the recent ECN+ Directive will be the focus of the first panel.

As protectionist populisms emerge across the world, since citizens feel neglected and start distrusting the benefits of the free market system, I find that one of the major challenges of our time, for the antitrust community as whole, is about regaining peoples’ trust on the social and individual benefits of competition as an engine for prosperity, opportunity and choice.

In this context, empowering competition agencies to become more effective enforcers, by giving them the necessary guarantees of independence, resources, investigation and sanctioning tools, becomes key for them to be able to rise up to the challenge. These are the main goals of the ECN+ Directive.

It goes without saying that the credibility of any competition system relies to a decisive extent on striking the right balance between effective enforcement and due process. The first panel will discuss ways to achieve it.

Please also allow me this opportunity to mention that the AdC has been entrusted with the mission of preparing the draft legislation for the purposes of implementing the Directive.

One we accepted the invitation, we hit the road running. To help us in the preparatory works we have been holding a series of hearings with relevant stakeholders, we created a working group of external experts which has been working full force, we plan to hold an enlarged consultative workshop as well next June or early July (so do stay tuned) and finally a public consultation after the summer.

We want make sure that the transposition process is balanced, consensual as far as possible, and takes into account the views of all interested stakeholders, because this will help to define the effectiveness of competition policy in Portugal in the years to come. Everybody is invited to contribute!

Panel II - Financial sector and competition: Competing after the financial crisis in the FinTech era

Panel 2 will deal with how digital disruption is changing financial services.

The role of traditional retail banking is under pressure as new fintech and platform based competitors enter into some of its core businesses, such as peer-to-peer lending, crowd funding, payment services, robo financial advisors, etc., which deliver a lot in terms of consumer choice and financial inclusion.

But the plot thickens because Big Techs and retail giants are also entering the scene and can use data gathered from clients, combined with their cutting edge knowledge of digital technology and artificial intelligence to provide new financial services, which is by the way facilitated by open access regulation (requiring banks to give access to their clients' bank account data to new service providers.)

Do these new comers require a different type of regulatory oversight, inasmuch as they do not receive deposits? How can all this be achieved without unduly stifling innovation and efficiency? And what does this all mean for the traditional alleged tension between competition policy and financial stability (pursued by banking regulation)?

These are some of the puzzles that this panel will try to solve

Panel III - Digital economy and competition: Samsons and Goliaths before the Competition Authorities

Panel 3 will focus on impact of digital on competition and whether antitrust should tame the global tech giants for they are said to be BAAD, that is too Big, Addictive, Anticompetitive And Destructive To Democracy (as the Economist magazine once put it)

Market power in the Information Age is based on access to valuable information on consumers' preferences and personal habits. An emerging insight is that data is currently the most valuable resource on the planet – the currency that we freely give away freely to have access to certain web services.

But size is not a bad thing. Scale brings efficiencies. The knowledge-based society created products and services that have made the world a better place. This is all fine, so long as it is disciplined through the competitive process.

Regardless of the specific remedy one may envisage to solve competition concerns triggered by digital economy where and if they exist (from divestiture to utility regulation, to data portability and interoperability), competition agencies are concerned about the need to ensure that markets remain open and contestable, so that citizens remain in control of their fates, of their choices and of their data.

Panel IV - Settlements, commitments and other termination options after ECN+: Negotiate or fight after ECN+ and the Private Enforcement Revolution

The fourth and last panel will discuss settlements, commitments and other termination options for antitrust cases, and how to solve conflicting incentives that may arise therein, such as controlling reputational effects, exposure to private damages, savings in time and resources and other antitrust risks.

The keynote speeches

In addition to the panels, we will have four distinguished keynote speakers, including Sofia Oliveira Pais, Nuno Rocha de Carvalho, and João Silva Torres, Secretary of State for Consumer Protection, who will deliver the closing remarks.

Because we do walk the talk of diversity and we love the men in our lives, we do have a few – lucky – men in our program today, starting with our next speaker, who is one of the forefathers of modern Portuguese and EU competition policy today.

After a prominent political career, he became Advocate General and then the first President of the then CFI now General Court of the Court of Justice of the European Union. He presided the Legislative Committee which was responsible for modernising competition policy and which first created an independent competition agency in Portugal in the ides of 2003, called *Autoridade da Concorrência*More recently, he returned to the crime scene, by becoming again judge of the ECJ, where he was responsible, amongst many others, for cases like YKK, Post Danmark II, AC Treuhand, Intel. He is also an entrepreneur because following all this he has just founded a new law firm.

But more importantly, he was certainly responsible, either directly or indirectly, for advancing the professional lives of many of you, Ladies and Gentlemen, sitting in the audience today, myself included.

Today, he will speak to us on *Judicial challenges in the enforcement of competition rules in the digital age*.

With no further ado, I leave you with José Luís da Cruz Vilaça. Thank you for your attention.
