

# INFORMATIVE NOTE



## OUTLOOK 2016



## MAIN TRENDS EXPECTED IN COMPETITION LAW

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### SANCTIONING ACTIVITY

In the document setting out its priorities for 2016, the PCA stands firm in its intention to investigate any situations of **collusion between companies in public procurement processes**. It was not possible to begin using the databases for public procurement in 2015. However, the PCA plans to begin using them in 2016 to identify evidence of collusion. In relation to this, in 2015, the PCA imposed sanctions against five companies for anti-competitive practices in public procurement processes for the supply of prefabricated units to Parque Escolar, the entity responsible for the programme of modernisation of Portuguese schools. This action confirms the PCA’s intention to deal with this problem as a priority.

In the context of detecting the more serious infringements of competition rules – particularly cartels, which are frequently secret –, the PCA intends to continue to make use of the **leniency policy process** and of the **settlement procedure**. Under the

settlement procedure, companies that admit facts and assume responsibility for a given infringement, thus waiving any right to bring judicial proceedings, may obtain a reduction in the fine applied. It is worth noting that the above mentioned proceedings relating to the supply of prefabricated units for Parque Escolar originated from a leniency application made by one of the companies involved. The PCA then managed to reach settlements with the remaining companies.

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Some **pending proceedings** should see **developments in 2016**. In 2015, the PCA carried out searches at the ports of Lisbon, Setúbal, Sines and Viana do Castelo, and at various office supply companies. Both search operations were the result of suspicions of cartel activity and we should see developments in these proceedings in 2016. In the second case, the PCA has already issued the statement of objections but is yet to issue its final decision. A final decision is also awaited in the process involving an alleged exchange of sensitive information in the banking sector. The statement of objections in this process was issued in 2015. Furthermore, following the actions taken by Peugeot and Ford, Fiat and SIVA (the latter being an importer of Audi, Volkswagen and Skoda vehicles) proposed commitments in 2015 to eliminate from their contracts any impediment to clients having maintenance or repairs carried out in independent workshops, under penalty of losing their rights to their guarantees. It is hoped that the PCA will accept these commitments in 2016.

Finally, it should be noted that, last year, the PCA issued statements of objections or decisions imposing sanctions to various companies for **provision of false, inaccurate or incomplete information** in the context of administrative or supervisory proceedings. These actions reflect the PCA's zero tolerance approach to the failure by companies to provide information requested from them. Some of these processes should see developments in 2016.

### SUPERVISORY ACTIVITY

When it comes to the question of its supervisory powers, the PCA intends to be more efficient in its appraisal of **concentration operations**, reducing the time taken up by investigation in complex processes. The PCA also intends to press ahead with its policy of detecting concentration operations which, in breach of the law, have not been notified to it. For this reason, companies should pay special attention to this issue.

Furthermore, the PCA intends to **continue to monitor the telecommunications sector and the energy sector**, through studies/or progress reports.

Finally, after having launched a public consultation process on the **study carried out into competition in the ports sector**, this year the PCA should prepare and publish the final version of this study.

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JOÃO PAULO FELICIANO  
Detail

Kleidoscopic Blues Machine 2006,2007  
Tripe de madeira, monitor de video acrilico, aco e cabo de  
aço, video, p/b, s/som, 8'07"  
160 x 60 x 180  
From the Collection of the PLMJ Foundation

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 Iberian Law Firm of the Year  
*The Lawyer European Awards, 2015-2012*

 Portuguese Law Firm of the Year  
*Who's Who Legal, 2015, 2011-2006*  
*Chambers European Excellence Awards, 2014, 2012, 2009*

 Top 5 - Game Changers of the last 10 years  
Top 50 - Most Innovative Law Firm in Continental Europe  
*Financial Times - Innovative Lawyers Awards, 2015-2011*