



## OUTLOOK 2017



## MAIN TRENDS EXPECTED IN COMPETITION LAW

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On 29 December 2016, the Portuguese Competition Authority (“PCA”) announced its Priorities for Competition Policy for the Year 2017, and Margarida Matos Rosa took up her position as President of the Board of Directors of the Competition Authority on 20 November 2016, so 2017 will be the first full year of her term of office.

### SANCTIONING ACTIVITY

In 2016, the PCA launched its campaign to combat collusion in public procurement and it took a number of steps to raise awareness and to publish guidance documents addressed to contracting entities and other entities involved in public purchasing. Now, in 2017, the PCA intends to follow up on the work done in analysing public procurement procedures, with a view to detecting indications of collusion.

In the context of detecting the most serious violations of competition rules – including cartels – and in the wake of the actions it has been taking over recent years, the PCA has established the promotion of the Leniency Programme as a priority. This programme provides for exemption from or reduction in the fine for companies and individuals that report participation in cartels to the PCA. In 2016, the PCA upheld convictions in relation to alleged cartels – in the paper envelopes sector and the office supplies sector – that were based on leniency applications.

The PCA intends to continue to promote the concept of settlement and the withdrawal of proceedings subject to the imposition of conditions, as tools that make it possible to achieve gains in procedural efficiency. In this respect, two sets of proceedings, involving DIA and the Order of Psychologists, were withdrawn in exchange for commitments.

The PCA also intends to set up a new reporting website and a dedicated telephone line, to make it easier for companies and individuals to self-report to the PCA.

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Some pending proceedings should see developments in 2017. In 2016, the PCA carried out searches at the premises of various specialised credit institutions, which were the result of confirmation of indications of alleged anti-competitive practices of exchanging sensitive commercial information. In January 2017, the PCA carried out searches in the driving school sector, based on indications of alleged price-fixing for driving permits.

Both sets of proceeding should see developments over the course of this year. In turn, the case relating to the alleged exchange of sensitive information in the banking sector, suspended for almost a year by order of the Court of Competition, Regulation and Supervision, should also see further developments. There may even be a final decision by the PCA in this case, where the statement of objections was issued back in 2015. In another case involving restrictive practices, a final decision should be taken in the process that involves companies of the EDP and SONAIE groups, which are suspected of entering into an agreement in restriction of competition in the context of the partnership created to implement the sales campaign “Plano EDP Continente” (EDP Continente Plan).

The role of the PCA’s activity in acting as a deterrent should be strengthened with the adoption of national legislation to implement Directive 2014/104/EU, known as the “Private Enforcement Directive”, which should, indeed, already have been implemented. The aim of this Directive is to make it easier to bring actions seeking compensation for infringement of competition law rules, thus ensuring adequate compensation for the victims who suffer losses as a result of those infringements.

#### SUPERVISION ACTIVITY

In terms of its powers of supervision, the PCA has established speed and effectiveness as its priorities in the area of evaluating concentration operations. The PCA intends to reduce the average time taken to analyse complex operations by between 5% and 10%. It also intends to continue with its policy of detecting concentration operations which, in violation of the law, have not been reported.

Furthermore, in 2017, the PCA intends to go ahead with market studies and surveys by economic sectors and by type of agreements, in which possible restrictions on competition are identified. For the year that is now beginning, the PCA has chosen the liberal professions, transport, telecommunications and energy as priority sectors. The promotion of competition and efficiency in public procurement is also a priority.

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#### OTHER ACTIVITIES

In view of its mission to contribute to the consolidation of a competition culture in Portugal, the PCA plans to carry out events to promote good practices to detect collusion and to encourage efficiency in public procurement. All this is part of the campaign to combat collusion in public procurement that was mentioned above.

The PCA also intends to raise awareness of the Guide to Promoting Competition for Associations of Companies, published in 2016.

Finally, the PCA will host the 2017 Annual Conference of the International Competition Network (ICN), which will bring together 600 high-level representatives from the competition authorities of more than 120 countries. They will be joined by lawyers, economists, academics and international organisations.

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