



EU AND COMPETITION LAW

PCA ADOPTS INFRINGEMENT DECISION IN THE MARKET FOR BOTTLED GAS

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The Portuguese Competition Authority (PCA) imposed fines of 9.29 million euros on Petrogal, Galp Açores and Galp Madeira for alleged practices that restrict competition in the market for bottled liquefied petroleum gas (LPG) in continental Portugal and in the Autonomous Regions of the Azores and Madeira.

According to the announcement published by the PCA on 3 February 2015, the investigation carried out led to the conclusion that the undertakings of Galp Energia group prohibited passive sales. In other words, they forbid its bottled LPG distributors from responding to unsolicited orders originating from outside the geographic area defined in the relevant agreement. This prevented consumers from choosing the distributor that offers the best conditions.

In accordance with the applicable legislation, while active sales (sales promoted by the distributor itself outside the territory) may be restricted under certain circumstances, passive sales (meaning mere responses of a distributor to spontaneous supply requests from clients located outside the territory) cannot, as a rule, be prohibited.

The investigation started following a request for information sent by the PCA to Galp Energia. The PCA inferred from the subsequent analysis of the agreements entered into with LPG distributors that the majority of Petrogal's agreements in force prohibited passive sales outside the distributors' territory, and that all the Galp Açores and Galp Madeira agreements in force prohibited passive sales outside the contractual territory. The investigation carried out by the PCA also revealed that these agreements had been implemented, as various distributors mentioned that they had not made any sales outside their contractual territories due to the prohibition included in the agreement and/or because they had received guidelines from Petrogal, Galp Açores and Galp Madeira to that effect.

The announcement also indicates that the PCA deemed it proven that the breach that occurred in continental Portugal continued over a period of at least fifteen years, whereas the breaches in the Autonomous Regions of the Azores and Madeira continued over periods of thirteen and three years, respectively.

This decision is the most important one adopted by the current Council of the PCA since it took office in 2013.

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