



EU AND COMPETITION LAW

News - Competition law and policy

2nd Quarter 2025

Each quarter, we present the most significant new developments in the Portuguese and European competition landscape. This edition features an in-depth investigation into the digital real estate sector and key court rulings in the tobacco and banking markets. We also provide updates on sanctions and regulations in sectors such as digital platforms, recycling, sports, technology, foreign investment, as well as State aid in the European Union. This is a summary of current affairs to address market challenges and support our clients.

PORTUGAL

I. Portuguese Competition Authority

REAL ESTATE PLATFORMS UNDER THE PCA'S RADAR

On 30 May 2025, the Portuguese Competition Authority (PCA) announced its decision to launch an in-depth investigation (Phase II) into Idealista's proposed acquisition of Portal47. Portal47 is the parent company of Kyero, an online real estate classifieds platform targeting private individuals residing in Germany, the United Kingdom, and Northern Europe.

While in-depth investigations are becoming more frequent, they remain uncommon and are usually reserved for cases where the PCA has serious concerns about whether the transaction is compatible with competition rules.

II. National Courts

THE REJECTION OF THE PCA'S APPEAL UPHOLDS THE ANNULMENT OF TOBACCO DISTRIBUTION COMPANY ACQUISITION

On 28 May 2025, the Supreme Court of Justice (STJ) ruled that the appeal lodged by the Portuguese Competition Authority (PCA) against the judgment of the Lisbon Court of Appeal (TRL) was inadmissible. The case had an unusual outcome in the Portuguese legal landscape: the judicial annulment of a clearance decision in a merger control procedure.

The TRL had already upheld the annulment by the Portuguese Competition Court (TCRS) of the PCA's decision not to oppose MidSid's acquisition of Dois Lados, a company specialising in the wholesale distribution of tobacco products.

According to the TCRS, the PCA's decision was vitiated by errors in the assumptions about the market for the distribution of tobacco products in Portugal, which undermines the legality of the PCA's decision.

BANKING INVESTIGATION OUTCOME PUT ON HOLD

On 7 June 2025, the Portuguese Constitutional Court (PCC) declined to hear the appeals lodged by the Portuguese Competition Authority (PCA) and the Public Prosecutor's Office in the case concerning the alleged exchange of sensitive commercial information among 11 banking institutions operating in Portugal. The original decision imposed fines totalling €225 million, with the largest amounts levied on four banks: CGD (€82 million), BCP (€60 million), Santander (€35.65 million), and BPI (€30 million).

The appeals concerned the ruling of the Lisbon Court of Appeal, which found that any prosecution of the alleged practice was time-barred. Consequently, the PCC stated that it lacked jurisdiction to hear the appeal.

The PCA has announced its intention to challenge this decision. This is the final procedural attempt to overturn the judicial interpretation of the statute of limitations. The case has lasted more than a decade and has involved a series of procedural challenges, including a request for a preliminary ruling from the Court of Justice of the European Union.

EUROPEAN UNION

I. European Commission

WHEN CAR RECYCLING GETS COSTLY

On 1 April 2025, the European Commission (EC) and the UK Competition Authority announced the conclusion of a joint investigation into alleged collusive practices in the end-of-life vehicle dismantling and recycling market. These practices are believed to have occurred between 2002 and 2017. The investigation resulted in fines totalling over €550 million being issued to 15 car manufacturers, several of their subsidiaries, and two industry associations in both the European Union and the United Kingdom.

This investigation found that the manufacturers involved allegedly coordinated their behaviour towards companies responsible for the dismantling of end-of-life vehicles. Furthermore, they reportedly agreed not to publicise the recyclability and reusability levels of their vehicles, thereby preventing consumers from comparing commercial offers based on vehicle recycling performance. The European Automobile Manufacturers' Association was also sanctioned for allegedly facilitating this practice.

This case is notable for its scale and significance, involving a large number of major European and Asian car manufacturers.

FIRST PHASE II DECISION UNDER THE FSR

On 4 April 2025, the European Commission (EC) published its first commitments decision following an in-depth investigation under the Foreign Subsidies Regulation (FSR). This decision relates to the acquisition of the PPF Telecom Group, which operates in Europe, by Emirates Telecommunications Group Company. The latter is a UAE-based operator that is controlled by the state-owned sovereign wealth fund, the Emirates Investment Authority (EIA).

The EC concluded that several financial contributions made by the United Arab Emirates - including unlimited guarantees and funding granted by state-owned or state-controlled banks - constituted foreign subsidies likely to distort the internal market.

In order to address these concerns, the EC accepted behavioural commitments, including the removal of the unlimited guarantee, restrictions on financing PPF's activities within the European Union, and the appointment of a monitoring trustee.

This decision sets an important precedent in the application of the FSR, demonstrating its capacity to influence corporate acquisitions by entities backed by third countries.

FIRST SANCTIONS UNDER THE DMA IMPOSED ON APPLE AND META

On 23 April 2025, the European Commission (EC) imposed the first fines under the Digital Markets Act (DMA) following an investigation into Apple and Meta. The companies were also ordered to remedy these infringements.

Apple was fined €500 million for allegedly limiting users' ability to choose offers outside the App Store through anti-steering clauses and for restricting app developers from advertising alternative ways to sell their products. At the same time, the EC closed another investigation into Apple after the company amended the way in which users can select default options in their phone settings.

Meta was fined €200 million for allegedly imposing a model (known as "consent or pay") that would require users to choose between: (i) consenting to Meta's use of their data for targeted advertising; or (ii) paying a monthly subscription for an ad-free service - despite the DMA requiring that users who do not give such consent must still have access to an equivalent version of the product.

NO-POACH AGREEMENTS BETWEEN DELIVERY HERO AND GLOVO AMONG STRONGLY CENSURED PRACTICES

On 2 June 2025, the European Commission (EC) imposed a total fine of €329 million on Delivery Hero and Glovo for allegedly entering into no-poach and market-sharing agreements, and for allegedly sharing sensitive information.

Such no-poach practices have been receiving increasing attention from competition authorities, including the Portuguese Competition Authority, which has identified them as one of its priorities for 2025.

The investigation also concluded that the coordination between the two companies was facilitated through a minority shareholding. According to the EC, Delivery Hero's minority stake in Glovo was crucial in enabling the coordination between the two companies and providing access to Glovo's commercially sensitive information and influence its decision-making.

The companies in question reached a settlement with the EC, thereby obtaining a reduction in the fines imposed on them.

II. Legislation

NEGOTIATIONS ON FOREIGN INVESTMENT HAVE BEGUN

On 17 June 2025, the European Parliament, the Council and the European Commission (EC) began interinstitutional negotiations on the revision of Regulation 2019/452, which establishes a framework for analysing foreign direct investment (FDI) in the European Union.

The negotiations will cover, among other matters, the division of competences between the EC and the Member States, the analysis of greenfield investments (i.e., the construction of operational facilities from scratch), and the scope of the sectors to be covered by this Regulation.

It is expected that negotiations will continue until the end of 2025, so it is unlikely that the revised framework will become fully applicable as early as 2026.

III. Court of Justice of the European Union

REJECTION OF RYANAIR'S APPEAL UPHOLDS STATE AID TO LOT

On 2 April 2025, the General Court of the European Union (GCEU) rejected Ryanair's appeal against the €650 million of Polish State aid granted to the airline LOT. This aid was approved by the European Commission (EC) under the State Aid Temporary Framework, which was adopted in response to the COVID-19 pandemic.

The GCEU upheld the EC's finding that the aid was proportional and did not exceed the minimum necessary to ensure the viability of the company.

The GCEU also stated that Member States are not required to grant aid to all undertakings that contribute to the connectivity of their territory. It noted that the Commission's decision demonstrated the need to preserve LOT's contribution to the Polish economy.

Although the pandemic has ended, its economic effects continue to be addressed before the EU courts, as demonstrated by this judgment.

TAX EXEMPTION FOR RAILWAY INFRASTRUCTURE MAY NOT CONSTITUTE STATE AID

On 29 April 2025, the Court of Justice of the European Union (CJEU) issued a ruling in response to a request for a preliminary ruling from a Polish court concerning a property tax exemption for real estate equipped with railway infrastructure. The question was whether the exemption made available to railway undertakings should not, in principle, be regarded as state aid, given that it does not entail a selective advantage. However, the CJEU has referred the specific analysis back to the national court that had referred the question to it.

The CJEU found that the exemption was not a selective measure, as it was defined in general and abstract terms and was available to any taxpayer who owned and made such infrastructure available. Therefore, it was not restricted to undertakings with specific characteristics or activities.

The CJEU also noted that the measure did not form part of a system based on clearly discriminatory parameters, but rather pursued budgetary and environmental objectives.

This judgment is particularly important in clarifying the criteria for assessing selectivity in tax matters relating to the pursuit of objectives of general interest.

APPEALS AGAINST CZECH SUPPORT MEASURES ARE NOT PERMITTED DUE TO LACK OF STANDING

On 14 May 2025, the General Court of the European Union (GCEU) dismissed the actions brought by Tely, a Czech satellite television operator, and the Czech Association of Satellite Operators (CASO). The GCEU found that they lacked legal standing to challenge the European Commission's (EC) March 2021 decision. In that decision, the EC concluded that a measure adopted by the Czech Republic in the television sector did not constitute State aid, meaning that it did not begin a formal investigation procedure.

This ruling is notable for emphasising the standing requirements applicable to actions challenging EC decisions which, following a preliminary assessment, conclude that no aid is present.

According to the GCEU, the applicants failed to demonstrate how the Commission's decision not to investigate the measure further infringed their procedural rights. They also failed to show that the measure in question was likely to affect their position in the market significantly. Failure to meet these conditions led to the action being considered inadmissible.

Furthermore, the GCEU held that the EC's decision could not be classified as an act of general application exempt from enforcement measures, since its application always depended on individual decisions by national authorities. Accordingly, the applicants lacked procedural standing to challenge the acts in question.

APPLICATION OF COMPETITION RULES TO SPORTS REGULATION UNDER DISCUSSION

On 15 May 2025, Advocate General (AG) Nicholas Emiliou delivered opinions in three cases addressing the compatibility of sports associations' rules with the European Union's competition and internal market rules.

Among other points, the AG defended a restrictive interpretation of the principle that competition and internal market rules do not apply to provisions adopted for exclusively non-economic and strictly sporting reasons (known as "the sporting exception").

The AG took the view that, although no-poach agreements, whereby two or more undertakings agree not to hire each other's staff, are generally considered to be restrictive by object, this may not always be the case. Specific cases may require careful analysis to determine whether they qualify as such. As illustrated in one of the cases analysed, they may even be justified. In this case, the AG considered that an agreement between football teams entered into during the COVID-19 pandemic could be justified due to the exceptional circumstances.

This approach highlights the growing importance of such practices, in line with the increased attention they have received from competition authorities, particularly the Portuguese Competition Authority.

GOOGLE ANDROID FACES A NEW CHALLENGE

On 25 June 2025, Advocate General (AG) Juliane Kokott upheld the dismissal of Google's appeal against the decision of the General Court. This decision largely upheld the European Commission's (EC) decision in the Google Android case, resulting in a €4.1 billion fine. The case concerns alleged practices relating to Android mobile devices, which were allegedly intended to strengthen the dominant position of Google's search engine.

Among other points, the AG considered that it was not necessary for the EC to analyse what the market would be like in the absence of the practice in question, as an analysis of consumer behaviour would be sufficient. Furthermore, in the AG's opinion, it was unnecessary to carry out the 'as-efficient competitor' test to assess the exclusionary effects of the practices, given Google's position and importance.

This is one of the most emblematic cases of the recent application of Article 102 TFEU to the digital economy. ■