



**AUTORIDADE DA
CONCORRÊNCIA**

BEST PRACTICES

**PREVENTING ANTI-COMPETITIVE
AGREEMENTS IN LABOUR MARKET**



Who is it aimed at?

This guide is aimed at companies (undertakings) and human resources professionals and others involved in the recruitment process in companies.

What is the objective?

Raise awareness to the risks of entering into anti-competitive agreements and of best practices in the hiring of workers and the definition of salary conditions.



What type of labour market agreements can harm competition?

**AGREEMENTS TO
FIX WAGES or
other forms of
compensation**

These are **AGREEMENTS** by which companies harmonise or standardise the wage or other benefits of their employees

**AGREEMENTS NOT
TO SOLICIT OR NOT
TO HIRE workers
(no-poach
agreements)**

These are **AGREEMENTS** whereby companies mutually agree not to make spontaneous offers or to hire workers, without the prior consent of the other companies in the agreement.

What effects can labour market agreements have?



INTRODUCE AN INEFFICIENCY

BY DISTORTING THE ALLOCATION OF THE LABOUR INPUT

HAVE AN INSTRUMENTAL ROLE

IN MARKET SHARING AGREEMENTS BETWEEN COMPETITORS

SIGNAL POOR COMPETITION

BETWEEN COMPETING FIRMS DOWNSTREAM

REDUCE QUALITY AND VARIETY

OF PRODUCTS OR SERVICES PROVIDED

LIMIT THE ABILITY

OF A FIRM TO EXPAND PRODUCTION

REDUCE THE BENEFITS

OF WORKERS

DAMPEN INVESTMENT

IN HUMAN CAPITAL

Competition Law and Labour Market

NO-POACH and **WAGE-FIXING AGREEMENTS** may harm workers and consumers by restricting competition in several dimensions.

NO-POACH and **WAGE-FIXING AGREEMENTS** may be subject to fines as agreements between companies, concerted practices and/or decisions by associations of companies within the meaning of article 9 of the Portuguese Competition Act and, if applicable, of article 101.^o of the Treaty on the Functioning of the European Union (TFEU).

An anticompetitive labour market agreement can also be referred to as:

**NO-POACH
AGREEMENT**

**GENTLEMEN
AGREEMENT**

**NON HIRING
AGREEMENT**

**WAGE FIXING
AGREEMENT**

**NON
AGGRESSION
PACT**

**NO COLD
CALL
AGREEMENT**

**EXCHANGE OF
EXTERNAL
SENSITIVE
INFORMATION**

Eliminate hiring or wage setting policies that involve agreements with other companies

Do not exchange company-specific information on employee compensation

Do not agree with another company to fix the level of salaries, benefits, or any other form of compensation to employees

Do not participate in meetings with other companies about internal hiring and wage policies

Do not refuse to solicit or to hire employees from another company

If you have **suspicious of anti-competitive agreements** involving the hiring of workers or wage setting conditions between companies
contact
Autoridade da Concorrência

The **complaint** can be made anonymously.

When detecting a conduct that may harm competition, the AdC investigates and punishes with fines, whenever there is a practice prohibited by the Portuguese Competition Act and, if applicable, by the TFEU.

An application for **leniency** (legal framework for granting a waiver or reduction of fines) can be made.



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