

## Competition Policy Priorities for 2023

The mission of the Autoridade da Concorrência (AdC) is to ensure the **enforcement of the rules that promote and enforce competition** in the public, private, cooperative and social sectors, in light of the principle of market economy and free competition. This mission is pursued **in the interest of the people**.

By carrying out its mission, the Autoridade's actions strengthen the levels of competition in the Portuguese economy. This tends to translate into an improvement in the quality and price of goods and services available.

In 2023, the activity of enforcing and promoting competition across the entire Portuguese economy will continue to be based on the values of dedication, excellence, collaboration, responsibility, and impartiality, as well as respect for the rights of defense, all of which are essential in the pursuit of the AdC's statutory mission.

In 2023, the competition policy priorities are, in summary:

- to detect, investigate, and sanction anticompetitive abuse or behavior with a substantial impact on households and businesses, namely cartels and other illicit behavior between competitors;
- to investigate evidence of abuse and collusion in digital markets, through the AdC's digital team, in close cooperation with other European authorities;
- to contribute to the growth of the Portuguese economy, by reinstating initiatives that include a competition angle in the spectrum of public policies;
- to promote open and competitive labor markets, in which employers adopt an independent and competitive conduct, thus contributing to more opportunities for workers and for innovation;

- to consolidate internal checks and balances procedures, therefore ensuring a legally and economically robust performance;
- to strengthen initiatives to disseminate the benefits of competition to the AdC's stakeholders;
- to contribute, through an effective competition policy, to the ability of Portuguese firms to compete on the merits in global value chains.

In 2023, the AdC's **main priority** remains to defend the Portuguese economy from anticompetitive abuse and behavior that have a substantial impact on households and companies, namely **cartels** and other illicit behavior between competitors. Cartels continue to constitute the most serious infringement for competition, with harmful effects for consumers.

After the entry into force of Law 17/2022, of 17 August, which transposed the ECN+ Directive, the AdC saw its **enforcement powers strengthened**. It is thus expected that it will result in an increased capacity to detect, investigate, and sanction anticompetitive behavior, either *ex officio*, or through leniency applications - which in 2022 reached a record number of 8 in Portugal -, or through complaints from consumers or other market players, within the new whistleblower tool implemented by the AdC.

Today, the digitization of the economy is an irreversible and enduring phenomenon that was accentuated in the last decade and accelerated by the pandemic crisis. It is in this context that, in recent years, the AdC has built its internal capacity, including by deepening its knowledge on the use, by companies, of algorithms or artificial intelligence, to be faster and more efficient in investigating evidence of abuse and collusion in the digital environment. This was key to address the new challenges of the digital economy more effectively.

The AdC created its digital team in 2020, pooling expertise from different departments and achieving significant results. In 2023, the AdC's digital team will continue to monitor all digital competition policy initiatives and possible investigations related to digital markets, in close cooperation with other European authorities on these topics. This close cooperation will be essential, in particular, to ensure the interplay between competition

enforcement and the Digital Markets Act (DMA), which will apply as of May 2023. A **vigorous action by the AdC in the digital environment** is essential to protect the competitive dynamics of the markets and the resulting benefits for households and businesses.

In 2023, the AdC will contribute to inclusive and sustainable economic growth, reinforcing initiatives to include the competition dimension in the spectrum of public policies. This will be based on the AdC's recent work, examples of which are the Report on the **contribution of competition to economic recovery** (2021)<sup>1</sup> and the Report on **competition and purchasing power in times of inflation** (2022)<sup>2</sup>.

Through an intense and diversified enforcement and advocacy of competition in the various sectors of the Portuguese economy, particularly those which are structural and are more vulnerable in terms of competition, the AdC will continue to contribute to a true pro-competitive environment in the Portuguese economy, to the strengthening of competitiveness and productivity in Portugal and, subsequently, to economic growth and the well-being of citizens.

It is in this context that the AdC will continue to give priority to advocate its **recommendations**, which cover **various sectors of the economy**, promoting their implementation, including the recommendations to eliminate barriers created either by legislation or by anti-competitive practices of incumbents.

In 2023, and in line with its recent activity, which includes the publication of a Final Report and a Guide of Best Practices on anti-competitive agreements in labor markets (2021)<sup>3</sup>, as well as the first sanctioning decision in the labor market, namely for no-poach (2022)<sup>4</sup>, the AdC will intensify its contribution to an **open and competitive labor market**. It will keep a vigilant stance on

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<sup>1</sup> <https://www.concorrenca.pt/sites/default/files/2021-AdC-contribution-on-economic-recovery.pdf>

<sup>2</sup>

<https://www.concorrenca.pt/sites/default/files/Competition%20and%20purchasing%20power%20in%20times%20of%20inflation.pdf>

<sup>3</sup> <https://www.concorrenca.pt/en/articles/adc-publishes-final-report-and-best-practices-guide-anticompetitive-agreements-labor>

<sup>4</sup> <https://www.concorrenca.pt/en/articles/adc-issues-sanctioning-decision-anticompetitive-agreement-labor-market-first-time>

horizontal no-poach agreements and wage-fixing agreements, which may arise in any economic sector. The AdC will also continue to promote outreach sessions of the Best Practices Guide on anticompetitive agreements in labor markets to relevant stakeholders.

With regard to merger control, the AdC maintains the priority of continuing to be increasingly swifter and more effective in its assessment, thus contributing to the efficiency of the market dynamics. As in recent years, the AdC will continue investigate mergers implemented before approval by the AdC ("**gun-jumping**"). The AdC will also promote its Guide on Best Practices regarding gun-jumping (2022).

To ensure efficiency, robustness, and procedural swiftness, particularly with regard to the legal and economic reasoning of its decisions, the AdC will maintain high standards regarding the rights of defense of the investigated parties, as well as promote continuous improvement in internal checks and balances.

Finally, in 2023, the AdC will intensify initiatives to advocate and communicate the benefits of competition to stakeholders, including companies, associations, regulators, and students. In particular, the AdC will continue its outreach initiatives in priority sectors, namely with the Combat against Collusion in Public Procurement initiative, the Guide for Business Associations, the Best Practices Guide on anticompetitive agreements in labor markets and the Best Practices Guide on gun-jumping.

In short, in 2023, the AdC will pursue its enforcement and advocacy for competition. A robust competition policy promotes the integration of Portuguese companies in global value chains, enabling them to **compete on the merits**. Thus, by combating the most harmful anticompetitive behavior for households and firms in structural sectors of the Portuguese economy, as well as by intensifying outreach initiatives with stakeholders, the AdC will contribute to the economic growth of the Portuguese economy, for the benefit of citizens.