

VI LISBON CONFERENCE ON COMPETITION LAW AND ECONOMICS

OPENING STATEMENT

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Distinguished speakers and guests,

Ladies and gentlemen,

It is my pleasure to welcome you to the Sixth Lisbon Conference on Competition Law and Economics.

This is a unique opportunity to discuss some of the most important topics that impact competition policy today with renowned experts who join us from all around the world.

Lisbon is an inspiring, beautiful, and historical city, which has been an international meeting point over the centuries.

Today, again, Lisbon serves as a hub for international dialogue and exchange.

At the same time, we are celebrating the AdC's 20th anniversary.

It is particularly rewarding to gather here in Lisbon, friends, partners, and stakeholders to celebrate 20 years of the AdC.

20 years of dynamic activity and commitment that have led the AdC to reach a high level of maturity, knowledge, and recognition.

In fact, as many of you know, just recently the GCR ranked the **AdC as one of the best 8 agencies** worldwide.

More importantly, we are celebrating **20 years of impact on society, by promoting choice, opportunities, innovation and growth.**

20 years of work to the benefit of consumers, firms, and the economy at large.

At this special moment, allow me now to address a word of gratitude to the President of the General Court of the European Union, who travelled to Lisbon specifically for this Conference.

The presence of President Marc van der Woude, here, today, represents an inspiration to us all, as the case-law developed by the General Court is a beacon which guides our daily work in competition law.

I would also like to extend a special thanks to Olivier Guersent, Director-General for Competition at the European Commission.

Soon after I took office as President of the AdC in March this year, I got hold of the prompt and continuous support that DG COMP, and Olivier Guersent in particular, have been providing to the AdC.

A support that has been built on a relationship of trust, as equal partners in all matters.

The presence at this Conference of the Portuguese Minister of the Economy and Maritime Affairs, Professor António Costa Silva, was confirmed, but due to publicly known circumstances he will not be joining us today.

Nevertheless, I take this opportunity to express my gratitude for the institutional support that Minister António Costa Silva provided to the AdC, knowing that the independence of the AdC is not at odds with the good institutional co-operation, which is due to all.

Ladies and gentleman:

The current economic and social context is particularly challenging for any competition authority.

The intersection between competition law and other areas of law and public policies is becoming more complex and calls for a clear view on the scope and level of intervention of competition agencies.

It also demands a transparent and predictable action by the AdC, that ensures legal certainty and security at all levels.

Nowadays competition agencies are prompted to act regarding a multitude of societal issues such as inflation; privacy; personal data; sustainability; digital markets; foreign subsidies or labour issues, just to name a few.

These issues remind us how wide the consumer's welfare standard is and how competition policy is flexible enough to integrate all dimensions that are valuable for consumers and, ultimately, the society at large.

At the AdC, we have been closely following these developments with both enthusiasm and a strong sense of responsibility, aware of the impact of our actions in pursuing the public interest and, at the same time, defending and promoting competition.

Having said this, and as part of the AdC's ongoing advocacy action, we undertook several initiatives in 2023.

Just to name a few, in April we published the paper "**Defence of competition in times of inflation: Recommendations on the value chain of consumer goods**".

There, a set of recommendations aimed at raising awareness of and compliance with competition law along the value chain of consumer goods were issued.

Also, the AdC has been active in promoting competition in **self-regulated liberal professions**, by advocating for the implementation of the OECD/AdC recommendations and thus contributing to remove legal barriers to these professions.

This has been carried out with an intense and fruitful dialogue with the national government, parliament, and public professional associations.

Finally, this week, the AdC published **an issues paper on competition and generative AI**.

This is one of the first worldwide reflections on the interplay between competition and generative AI where we map the main ingredients that will determine, in the future, the degree of competition in generative AI.

I do think this is an important paper, as we need to get competition right in Generative AI from the get-go, to harness the full potential of a technological disruption that is finding its way to countless dimensions of our daily lives. This will surely become a common topic of discussion in competition policy in the coming years.

Nevertheless, competition policy cannot thrive without citizen engagement.

That is why, this year, we launched the “20 years, 20 cities” outreach initiative.

Our aim is to share with local communities, including small and medium enterprises; public authorities; universities and local organizations, how they can benefit and contribute to improve competition at a local or regional level.

But the work of a Competition Authority is not confined to advocacy and outreach.

One of the keys elements to an effective competition agency is to achieve a right mix of advocacy and enforcement.

A mix where both dimensions are mutually reinforcing.

Taking this into account, the AdC is keeping a strong focus on enforcing competition, in order to stop illegal behaviour.

Just last week we carried out on-site inspections in the context of a new investigation related to collusion in the health sector.

In this regard, allow me to address head on the difficulties we have been facing in recent times.

We do know that when it comes to the substance of the cases, Courts have followed the AdC’s decisions.

I recall this year’s Portuguese landmark judicial decisions that confirmed AdC’s decisions such as in a cartel case in the telecom sector; an RPM case in the food retail sector and an abuse of dominant position case in the energy sector.

Also at the EU level, we welcome the recent two ECJ rulings which confirm the AdC’s approach.

So, the current challenge is to re-establish legal clarity regarding the investigative toolbox of the AdC.

Here, one can say that competition authorities should have at their disposal an adequate toolbox to ensure effective enforcement.

But that toolbox needs to include the power to seize and use digital evidence.

This is clearly stated in the so-called ECN+ Directive.

And it has been rightly affirmed by Portugal's Constitutional Court as compatible with the Constitution.

Accordingly, and after carefully analysing the recent Courts' rulings, the AdC is pursuing a multi-pronged strategy to assure the effectiveness of competition law enforcement, be it past, present and future.

In this context, the AdC is contributing to clarify the facts of the past and present cases and the interplay between national and European legislation.

At the EU level, we had the immediate support of the European Commission given by both Executive Vice-President Margrethe Vestager and DG Comp, in order to continue our enforcement activity.

Also, the power to seize digital evidence is under the assessment of the European Court of Justice in three preliminary ruling cases.

As these developments unfold, the AdC is, in parallel, finetuning its forensic IT tools and redesigning its team, so that we can keep fostering the effectiveness of our enforcement action.

For the future, I'm sure that a discussion on an amendment to the Competition Act is likely to occur in the near future in order to turn the legal text clearer, thus removing any potential interpretative doubts around the AdC's powers of inspection and use of evidence.

Our enforcement activity is also visible when it comes to merger control.

2023 is a record year in terms of merger filings to the AdC: 72 so far.

If one considers the period between October 2022 and October 2023 the number is even higher: 85.

Bearing those numbers in mind, I am pleased to say that we were able to keep our track-record of green-lighting the majority of the cases within a month.

Furthermore, and on substance, potential competition is taking the spotlight in merger control across many jurisdictions, like with the famous Illumina/Grail or the Microsoft/Activision mergers operations.

The AdC is no different on that regard.

I must say that, sometimes, the competitive discipline by a target firm is more than meets the eye.

At the same time, we will continue to take part in the most important international networks and fora.

Among others I am thinking of the ICN, where the AdC holds a position at the Steering Group.

Also, at the European Competition Network (ECN), bringing together the EU Commission and national competition authorities.

At the OECD, where we witness its dedicated effort to share expertise and best practices.

Here allow me to say a word of special thanks to Frédéric Jenny and António Gomes for being here today.

And also at the UNCTAD, where the AdC has been keeping a longstanding participation.

Also, UNCTAD has played an essential role in supporting the development of competition agencies in Portuguese-speaking countries, whose presence here I also welcome.

In this regard, I would like to pay special tribute to Teresa Moreira, whose work at UNCTAD has reaffirmed Portugal's leading role in the context of international organisations.

Ladies and gentleman

I have mentioned some of the challenges that the AdC has for the future.

Which, I have no doubt, will be overcome.

In fact, I have been witnessing how extraordinary the AdC's team is.

Moreover, I am pleased to have two friends on the Board of Directors: Ana Sofia Rodrigues and Miguel Moura e Silva.

So, the future looks promising.

I am sure that the AdC will remain at the forefront of the world's competition agencies for the next 20 years.

For these reasons, I look forward for the coming two-day's conference.

Two days during which we'll discuss some of the most important trends in competition law, namely related to AI; merger control; cartels; the DMA and exclusionary abuses.

To guide us through these topics, we will hear from our excellent line up of speakers, to whom I am grateful for their availability to participate.

To conclude, I recall the famous phrase by Justice Benjamin Cardozo in the equally famous book "The Nature of the Judicial Process": "*The ultimate cause **of the law** is the welfare of society.*"

Inspired by that sentence, and looking at this magnificent audience I can say that

*"The ultimate cause **of this conference** is the welfare of society".*

I do hope you enjoy our conference!

Thank you all for being here today.