

COMPETITION LAW POLICY

Policy agenda—telecoms sector—implementation of European Electronic Communications Code—need to reduce entry barriers, services' costs and ensure greater consumer switching

☞ Barriers to entry; Codes; Competition policy; Consumer interests; Electronic communications services; EU law; National competition authorities; Portugal; Telecommunications

The Portuguese Competition Authority (PCA) keeps a watchful eye on the telecoms sector

The telecoms sector has become extremely important in the context of the COVID-19 pandemic, and in this context the President of the PCA gave evidence in January 2021 to a parliamentary hearing regarding the rules of the 5G spectrum auction. During the hearing, Matos Rosa highlighted some weaknesses that prevent efficient competition operating in the sector. On the one hand, the PCA's president considers that the cartels investigated in 2020 (involving MEO, NOS, NOWO and Vodafone), led to price increases and quality reductions in the services provided. On the other hand, Matos Rosa stressed that loyalty clauses in telecommunication services contracts (usually with a 24-month duration) are too burdensome, that services' costs are high and there is low consumer mobility between service providers. The President also emphasised the urgent need to transpose the European Electronic Communications Code (the transposition deadline has already passed; the Commission opened infringement procedures in the beginning of February against Portugal and another 23 Member States). The PCA seems to be focused on keeping the promises set out in the 2021 priorities agenda to reduce the entry barriers for new market players and to promote consumer mobility.

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NATIONAL COMPETITION POLICY

Competition Law and the Green Deal—2021 national competition law agenda—avoidance of barriers to new green technologies

☞ Climate change; Competition law; Competition policy; Enforcement; Green deal plans; Innovation; Portugal

Portugal: Green Deal early adopter?

In early February, the Portuguese Minister of Economy, Pedro Siza Vieira, took part in the European Commission virtual conference on Competition Policy supporting the EU's Green Deal. He addressed the positive correlation between competition and innovation. Siza Vieira urged for a step up in EU competition rules to further support the implementation of the Green Deal in order to meet the ambitious targets of climate neutrality by 2050. The said message seems to have resonated inside the Portuguese Competition Authority (PCA). In her intervention, the PCA's president, Margarida Matos Rosa, highlighted that competition enforcers may play a crucial role in incentivising firms to innovate, as the Law allows for agreements to take place under certain conditions. Undertakings may be able to satisfy these conditions, namely through implementing sustainability initiatives that create efficiencies and improve overall consumer welfare. Matos Rosa further appealed for vigilance against anti-competitive behaviour that could either prevent the emergence of innovative green technologies or involve agreements, disguised as green, but used to ultimately harm competition and consumers. It seems therefore that the Green Deal has a place in Portugal's 2021 competition agenda. Is the ball now in the court of the private sector?

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STATE AID

State aid approvals—business support measures—regional aid to areas affected by COVID-19

☞ Azores; Coronavirus support payments; Corporate recovery; EU law; Portugal; Regional aid; Small and medium-sized enterprises; State aid

State aid update—survival before innovation

The new year brought new state aid support, in the form of the European Commission's approvals, in late January, of both a modification to the existing Portuguese scheme (approved on 27 November 2020) and of a new measure to support companies affected by the COVID-19 pandemic. As the pandemic is still producing harsh effects in the Portuguese economy, the measure comprises an increase in the total budget (€1.2 billion) and in the maximum amount granted per beneficiary. Moreover, the new measure is intended to compensate companies for part of their rental payments. These measures were followed by a €35 million Portuguese scheme approved by the Commission in early February, to support micro, small and medium-sized companies in the outermost region of Azores where it has been particularly affected by the pandemic. Amid the storm caused by the COVID-19 pandemic, will innovation plans be put on hold until businesses recover, or will innovation be used by authorities to promote the economy's salvation?

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