

## Portugal

### ANTI-COMPETITIVE PRACTICES

*Investigation—infraction decisions—food, drink and personal care retail sectors—hub and spoke agreements—anti-competitive pricing practices*

☞ Food industry; Hub and spoke practices; Portugal; Price fixing; Retail trade

#### Hub-and-spoke in the spotlight: the retail sector taken to task

By the end of 2020, the Portuguese Competition Authority (“PCA”) had shaken up the retail sector by adopting two Statement of Objections (“SOs”) and two infringement decisions against a number of large food retail chains and suppliers for price fixing hub-and-spoke practices.

On 24 November 2020, the PCA adopted a SO against the food retailers Continente, Pingo Doce and Auchan, as well as Active Brands, an alcoholic beverages supplier, for alleged price collusion in the alcoholic beverages market.

Two weeks later, on 2 December 2020, the competition watchdog delivered a SO to the same three abovementioned retailers and Baidersdorf, a supplier of cosmetic and personal care products, for similar alleged conduct.

Finally, just before Christmas, on 21 December 2020, the PCA imposed two infringement decisions on six food retailers, two drinks suppliers, a board member and a director for alleged hub-and-spoke conduct. The fines totalled about €304 million euro.

The first infringement decision concerned practices between Continente, Pingo Doce, Auchan and Intermarché, as well as Sociedade Central de Cervejas, a supplier of alcoholic and non-alcoholic drinks. In the second decision, the PCA sanctioned the same group of retailers, Lidl, Cooplecnorte and the spirit drinks supplier Primedrinks.

In all of these four cases, the PCA takes the view that the companies engaged in hub-and-spoke practices between 2008/2007 and 2017, whereby retailers came into contact with the same supplier—respectively, Active Brands, Baidersdorf, Sociedade Central de Cervejas or Primedrinks—to align the retail prices for several products, thus restricting price competition between retailers.

These cases follow a wider investigation by the PCA into the retail sector since 2017. On 21 March 2019, the PCA had issued three SOs against six large food retailers and three suppliers of alcoholic and non-alcoholic beverages for alleged hub-and-spoke practices (first set of hub-and-spoke cases). Two of these SOs led to the aforementioned infringement decisions. Recently, on 24 June 2020, the competition watchdog had sent a SO to three food retailers and to a supplier of pre-packaged bread and cake for the same practices. And 10 days later, the PCA issued another SO for hub-and-spoke practices to six food retailers and two alcoholic and non-alcoholic beverages’ suppliers (second set of hub-and-spoke cases).

Furthermore, the PCA claims to be conducting more than a dozen investigations in this sector. Therefore, further developments should be expected in the near future.

**Cláudia Coutinho da Costa**  
*Vieira de Almeida*

**Pedro Gil Marques**  
*Vieira de Almeida*