

## CUATRE CASAS, GONÇALVES PEREIRA



LEGAL FLASH | COMPETITION  
PUBLIC LAW

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Competition and Public Procurement

2

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## COMPETITION AND PUBLIC PROCUREMENT

In an interview published last Friday, September 18, 2015, in the economic newspaper *Diário Económico* (available [here](#)), the President of the Portuguese Competition Authority ("PCA"), António Ferreira Gomes, revealed the PCA has recently been granted access to the electronic public procurement databases, with the aim to monitor all the electronic data pertaining to public tenders.

This measure is the concretization of one of the PCA's competition enforcement priorities for 2015, as announced in December 2014 by the PCA, which will pay closer attention to behaviors that might evidence competition infringements, such as concerted practices between undertakings in public tenders, that may have as objective, namely, the artificial increase of prices, the reduction of the quality of products or services to be provided to public entities or the client partitioning, thus causing an harm to both the public entities and the consumers.

Infringements to competition law are punished with fines up to 10% of the turnover of the infringing companies and with the ban, up to two years, on the right to take part in public tenders. The infringing companies may also be condemned to pay damages caused by the infraction, in result of private enforcement actions.

The announcement of this priority of the PCA reinforces the importance of a prior assessment, by the companies interested in participating in public tenders, of the public procurement proceedings and the way the respective bids are presented. It also reinforces the importance of the implementation of a compliance program for competition law. Cuatrecasas, Gonçalves Pereira's Competition Department has a vast experience in these matters.

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