
Portuguese Competition Authority: Activity in 2023 and priorities for 2024

Analyzing the Portuguese Competition Authority's activity in 2023 and its priorities for 2024

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Key aspects

- > Over the past two years, the Portuguese Competition Authority (“PCA”) has been particularly active in investigating and sanctioning anticompetitive practices. This highlights the importance for companies to invest in strengthening their internal compliance policies as a preventative measure.
- > In 2023, the PCA’s activity in merger control increased significantly compared to the previous year, and there was an increase in the number of gun-jumping investigations.
- > For 2024, the PCA has prioritized investigating and sanctioning abuses of dominance and gun-jumping. It will also focus on the potential risks and challenges that the emergence of artificial intelligence (“AI”) poses to competition.



Activity in 2023

The PCA recently shared the results of its activity during 2023. The video presenting the 2023 data can be seen [here](#).

Investigating and sanctioning anticompetitive practices

With regard to the investigation and sanctioning of anticompetitive practices in 2023, the PCA:

- a) launched 7 investigations, the same number as the previous year;¹
- b) prepared 4 statements of objections, 1 short of the previous year;
- c) issued 10 decisions, 4 fewer than the previous year;
- d) carried out 3 dawn raids, half as many as the previous year; and
- e) received 4 leniency applications, half as many as the previous year.

However, in 2024, significant developments are expected in the infringement proceedings initiated between 2022 and 2023, including those arising from leniency applications received by the PCA.

Merger control

The PCA issued 82 merger control decisions, 20 more than the 62 decisions it issued in the previous year. This number is particularly noteworthy, as the last time the PCA issued a higher number of merger control decisions was in 2007.²

Also, regarding mergers, in 2023, the PCA carried out nine gun-jumping investigations,³ four more than the five it carried out in the previous year.

Recommendations, studies and opinions

In 2023, the PCA issued 24 recommendations, studies or opinions. These covered the sectors of agriculture, animals and fisheries; environment and waste management; digital and information technology; food distribution; energy and fuels; AI; liberal professions; and telecommunications and media.

¹ The 2022 figures were taken from the PCA video available [here](#).

² In 2007, the PCA adopted 91 decisions, as shown in the table on page 23 of the 2020 PCA Activity Report, available [here](#).

³ Gun-jumping refers to the breach of the obligation not to implement a merger that is subject to notification under the Portuguese Competition Law before obtaining clearance from the PCA.

In contrast, the PCA issued 21 recommendations, studies or opinions in 2022.

Table summarizing and comparing the PCA's activity over the past two years (2022 and 2023):

PCA's activity: Comparative table		
	2023	2022
Investigating and sanctioning anticompetitive practices		
Opening of the proceedings	7	7
Statements of objections	4	5
Decisions	10	14
Dawn raids	3	6
Leniency applications	4	8
Merger control		
Decisions	82	62
Gun jumping investigations	9	5
Recommendations, studies or opinions		
Recommendations, studies or opinions	24	21

Priorities for 2024

In 2024, the PCA will focus its attention on investigating and sanctioning abuses of dominance and gun-jumping. However, it will also address the potential risks and challenges that the emergence of AI poses to competition.

Specifically, and according to the document published on its website,⁴ the PCA's priorities in 2024 will be:

- a) strengthening its ability to detect and investigate cartels;
- b) investing in innovative computer forensics tools such as web scraping or screening to implement new methods for investigating anticompetitive practices and detecting unnotified mergers;
- c) identifying, investigating and sanctioning abuses of dominance;
- d) investigating failures to notify the PCA of transactions or implementing them before obtaining clearance (gun-jumping practices);

⁴Document available [here](#).

- e) strengthening international cooperation in the digital sector, particularly as regards the implementation of European Union legislation such as the Digital Markets Act; and
- f) monitoring the potential risks and challenges that the emergence of AI poses to competition.

Conclusion

In 2023, the PCA continued to investigate and sanction anticompetitive practices at levels similar to those of recent years. The PCA's decision-making and investigative practices in this area emphasize the importance of companies investing in their internal compliance policies as a preventative measure.

Also, the PCA's merger control activity increased significantly from the previous year, and there was an increase in gun-jumping investigations. This points to a growing awareness among companies of their obligation to notify mergers and a greater commitment from the PCA to monitor their compliance with this obligation.

Lastly, the PCA's important educational activity of issuing recommendations, studies or opinions in 2023 remained consistent with previous years, demonstrating the PCA's commitment to this important aspect of its advisory practice.

Looking ahead to 2024, as in previous years, the PCA will continue to prioritize identifying, investigating and sanctioning anticompetitive practices, with a focus on abuses of dominance and gun-jumping. The PCA will also address the potential risks and challenges posed to competition by the increasing prevalence of AI, in a bid to adapt to the new realities it will bring about.

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