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## Covid-19: AdC warns associations of the need to comply with competition rules

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### Covid-19: AdC warns associations of the need to comply with competition rules

The Competition Authority (AdC) issued guidance aimed at three business associations in the pharmaceutical and financial sectors, in the context of the Covid-19 pandemic, reaffirming the need to apply competition rules to the benefit of companies, consumers and the economy.

While recognizing the need to consider current circumstances, exceptional from an economic and social point of view, the guidelines addressed to ANF (National Association of Pharmacies), APB (Portuguese Banking Association) and ASFAC (Association of Specialized Credit Institutions) recall that compliance with competition rules is always more beneficial for companies and consumers, especially in crisis situations.

The AdC is therefore available, under the current exceptional circumstances, to provide informal guidance to companies individually, so as not to discourage them from adopting forms of cooperation aimed at benefiting consumers and the economy, provided that they are temporary and objectively necessary to address situations of shortage of supply.

In this context, and in particular, with a focus on business associations, AdC recalls that imposing commercial or other conditions on members of business associations constitutes an infringement of competition rules, punishable under the terms of the Competition Law, since companies must be free to determine individually their behavior in the market.

The AdC guidelines addressed to APB and ASFAC were based on the adoption of moratoria to protect credit agreements, in the context of the pandemic. In the document, the AdC expresses that associations should refrain from providing exchanges of information between members that are not strictly essential, adequate and proportionate for the definition of the credit moratorium regime of a temporary nature and founded on the response to the present crisis.

"In this sense, the eventual cooperation between credit institutions for the implementation of a private moratorium regime should not prevent each institution from creating more beneficial conditions for consumers, if it so chooses", says the document addressed to the two associations in the sector financial.

The AdC also recalls that credit institutions should focus possible discussions on matters that do not restrict their commercial and strategic freedom, and should refrain from disclosing information about their individual businesses and commercial strategies, even if in a more aggregated or generic nature.

In the pharmaceutical sector, the AdC issued guidance on a proposal by the ANF regarding the maximum margin to be applied in the sale of individual protection products against the pandemic and which would later be subject to legislative intervention.

In all cases, the AdC declares that it will continue to closely monitor the behaviour of the various economic agents concerned, not hesitating to act, making use of its sanctioning powers, whenever and insofar as it detects opportunistic conducts with a view to exploiting the Covid-19 crisis context so as to achieve non-essential cooperation or collusion objectives, as well as the occurrence of any other restrictive competition practices.

At the beginning of the pandemic, the AdC issued a statement warning that it remains particularly vigilant in its mission of detecting any abuses or anti-competitive practices that exploit the current situation, to the detriment of people and the economy and urged companies to adopt responsible business behaviour, at any level of the supply chain, including e-commerce.

Subsequently, as a member of the European Competition Network (ECN), the AdC signed a joint statement expressing its intention not to hesitate to act against companies that take advantage of current circumstances through cartelization or abuse of their dominant position.



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