

Unclassified

DAF/COMP(2007)15



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

25-May-2007

English text only

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

DAF/COMP(2007)15
Unclassified

ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN BRAZIL

-- 2006 --

This annual report is submitted by the Brazilian Delegation to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 6-7 June 2007.

JT03227775

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format

English text only

Executive Summary

1. In 2006, the Brazilian competition authorities pressed ahead with the work on modernising competition law and policy. The focus has been on improving – through better working methods, priority-setting and communication – the effectiveness of our efforts to make markets work better for consumers, focusing on anti-cartel enforcement and competition advocacy.

2. The strategy of focusing the scarce resources on cracking cartels rather than on merger review has been proven successful and there is an increasing number of investigations of anticompetitive practices, leniency applications and dawn raids. One clear indication that anti-cartel enforcement in Brazil is already effective and well viewed abroad is that in more than one case where there is a leniency in place in other jurisdictions, the parties also presented themselves to the Brazilian authorities and offered to collaborate with the investigation in exchange for lenient treatment.

3. Parallel to the improvements on cartel enforcement, the BCPS also engaged during 2006 in a number of initiatives with the purpose of disseminating the value of competition within the government and throughout the Brazilian civil society. This competition advocacy role has encompassed a variety of chores that included campaigns in the media, publications by competition senior officers, participation in courses and seminars to different audiences, working group discussions with different governmental bodies and the promotion of competition impact assessments of sectoral regulations.

1. Changes to competition laws and policies, proposed or adopted

1.1 Summary of new legal provisions of competition law and related legislation

4. In 2006, CADE issued two Ordinances:

- CADE's Ordinance No. 43, which establishes the rules and procedures related to the Journal of Competition Law ("*Revista de Direito da Concorrência*"), published quarterly by CADE, as well as defines the composition and role of the Editorial Committee and the Editorial Board;
- CADE's Ordinance No. 42, which revokes CADE's Ordinances No. 2, 3, 4, 6, 7, 8, 10, 11, 17, 30 and 33.

5. In 2006, CADE also held public hearings to discuss with the business community changes to its "Statute" (*Regimento Interno*), which was enacted on April 12, 2007, effective 30 days after its publication in the Official Gazette.

6. SDE also issued two new Ordinances, one jointly with SEAE:

- On January 4, 2006, SEAE and SDE issued Joint-Ordinance No. 33/2006, which clarifies the joint investigation procedure for merger control, and implements a similar procedure for anticompetitive practices. The goal was to rationalise and to coordinate the work of the two Secretariats, assuring more transparency, celerity and procedural economy.
- Furthermore, on January 5, 2006 SDE took another important step to uncover and put an end to hard-core cartels by issuing Ordinance of the Ministry of Justice No. 04/2006. The goal was to provide more guidance to leniency applicants and to increase the transparency of the application procedure, reflecting more than three years of experience in applying the

Brazilian Leniency Program. The ordinance clarified the information an applicant for leniency needs to provide to the SDE to benefit from immunity/fine reduction and introduces the so-called “marker system”. Under the new rules, an application can be accepted on the basis of only limited information; the applicant is then granted time to perfect the information and evidence to qualify for immunity/fine reduction. Furthermore, in order to ensure, to the extent possible, that applicants that cooperate with the SDE’s investigation are not impaired in their position in civil proceedings, as compared to companies who do not cooperate, SDE has decided to accept oral applications. Apart from improving the Leniency Program, Ordinance of the Ministry of Justice No. 04/2006 also clarified more general procedural rules affecting merger review and investigation of anticompetitive practices, improving legal certainty. The ordinance also clarified the criteria used to calculate the statute of limitations applicable to violations of the Brazilian Antitrust Law.

7. On March 28, SEAE published its Ordinance No. 46/2006, which disciplines the confidentiality aspects relating to mergers cases and to administrative proceedings of anticompetitive practices under analysis.

8. Throughout 2006, the BCPS held public hearings to debate changes to the existing merger notification form, which is expected to be amended in July 2007.

1.2 Other relevant measures, including new guidelines

9. In 2006, SDE and SEAE, together with the Central Bank, decided to carefully study the credit card market in Brazil, in view of alleged anticompetitive practices, by a Specific Cooperation Agreement.

10. In the international arena, SDE and CADE provided technical assistance to El Salvador. SDE sent to the mentioned country one of its technicians with the goal to share with the El Salvador’s authorities our antitrust expertise, especially with respect to investigative tools to crack cartels (dawn raids, leniency, etc). CADE participated as a donor of technical assistance on the partnership/consultation program held by subgroup 1 of the Competition Policy Implementation Working Group of ICN, by which the recipient electronically asks information and make consultation on cases.

1.3 Government proposals for new legislation

11. Representatives of the three antitrust governmental bodies have been discussing, since 2000, important amendments to the Brazilian Antitrust Law (Law no. 8.884/94). Thus, a new structure for the BCPS is being designed in order to avoid duplication of current activities. The discussion led to the draft bill No. 5877, which was sent to Congress in 2005. The proposed changes consists of, basically, a new distribution of functions within the BCPS, (i) with the assignment to SEAE of the responsibility for the competition advocacy of the System, (ii) the improvement of the relationship between the BCPS and regulatory agencies in regulated sectors; (iii) the incorporation of the competition department of SDE into CADE, to carry out merger review analysis and investigation of anticompetitive cases; (iv) and finally, CADE would keep its current attribution as independent tribunal linked, for budgetary purposes, to the Ministry of Justice. As a consequence, CADE would have both the attributions of investigating and judging cases – the investigation role would be carried out by a Directorate General, which head would have a two-year mandate, one renewal allowed. The Tribunal’s president and the commissioners, in the number of six, would have a four-year non-renewable mandate, instead of the current two-year mandate, renewable once.

12. The proposed amendments would also introduce some new important material features into the Brazilian Antitrust Law, such as a pre-merger notification system, the improvement of the merger notification criteria (thresholds with appropriate standards of materiality as to the level of "local nexus" required for notification), an early termination system for simple cases, and the possibility of closing a merger case by an agreement with the parties.

13. On competition advocacy, the government has sent to Congress a new draft legislation that would require all regulatory agencies to submit new rules and regulations to the Ministry of Finance for review as part of their regular public consultation phase. There has also been a clear demand from the Ministry of Finance for advice for discussions on regulatory issues. Combined with the proposed consolidation within the new CADE of merger review and antitrust investigation, these new developments make clear that SEAE's main role in the future would be related to competition advocacy, leaving the enforcement of competition law primarily to the new CADE.

14. The **Central Bank of Brazil (BACEN)** has the regulatory responsibility for banks and other financial institutions. In 2001, the Federal Attorney General's Office issued a legal opinion concluding that the specificity of Brazil's banking law took precedence over the more general language of Law No. 8.884, and thus effectively vested the Central Bank with sole jurisdiction over banks for all competition purposes. CADE has never acceded to that opinion, taking the position that Law No. 8884 (which was enacted after the banking law) is applicable to all economic sectors, and that CADE, as an autonomous agency, is not bound by a legal opinion issued by the Executive Branch. Negotiations between CADE and BACEN were undertaken to resolve the controversy. A consensus bill, sent to Congress in 2003 is now pending before Congress. The bill provides that the Central Bank shall have exclusive competency for reviewing mergers that involve a risk to the overall stability of the financial system. CADE shall have authority to review all other merger cases. Authority for handling conduct cases in the banking sector shall remain exclusively with the BCPS. CADE and BACEN have long had a working agreement that is employed primarily as a mechanism for exchanging information. At present, the two agencies are negotiating a wider agreement to promote cooperation and a joint work plan for conducting merger reviews. In 2006, CADE and BACEN started to discuss guidelines to review banking mergers following international and, more specifically, OECD debates.

2. Enforcement of competition laws and policies

2.1 *Action against anticompetitive practices, including agreements and abuses of dominant positions*

2.1.1 Summary of activities of

Competition authorities

15. During 2006, 37 cases of possible anticompetitive practices were brought to judgment before CADE, while 30 cases were judge 6 of them were found guilty (all related to cartel practices) and resulted in the imposition of fines on the total of R\$ 552.469,09 and other sanctions, and 3 Cease and Desist Agreements were signed.

16. Allegations of anticompetitive practices were present in the following sectors: food and beverages industries (1); chemical and petrochemical industries (4); pharmaceutical and hygiene industries (9); transports (4); health services (5); general services (5); others (2).

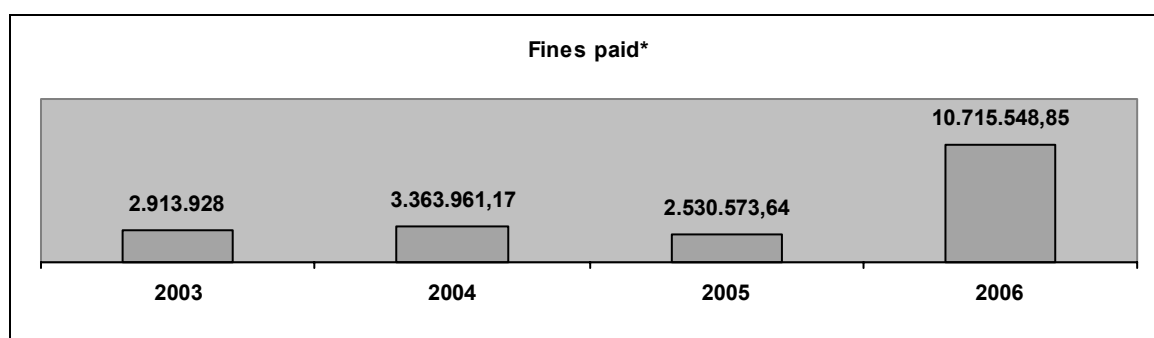
17. There were 35 preliminary investigations, presented to CADE by SDE. CADE dismissed 33 and required SDE to continue the investigation of 02 cases.

18. In 2006, SDE concluded 37 investigations and sent the cases to CADE for a final decision. SDE recommended the dismissal of 22 of such cases, as no evidence of anticompetitive conduct was found. In 8 cases, SDE concluded for the existence of an anticompetitive practice and recommended CADE to impose sanctions on the involved parties.

2006 Anticompetitive Practices

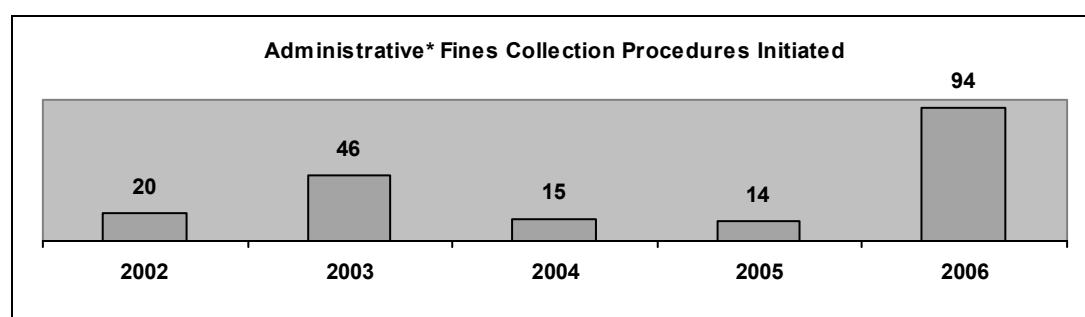
Judged	Filed	Condemnation by Cartel	Condemnation by Abuse of Dominance	Total of Condemnation	Closing of a preliminary investigation	Reopening of Investigations
30	24	6	0	6	33	2

19. CADE's attorneys have been more active, especially in collecting the fines imposed by CADE's Council. In 2006, 94 collection procedures were initiated, more than the total procedures initiated in the previous four years. As a consequence, CADE was able to collect in the past year the record amount of R\$ 10,7 million¹.



* The fines paid in 2006 are not necessarily related to judgments occurred in the same year.

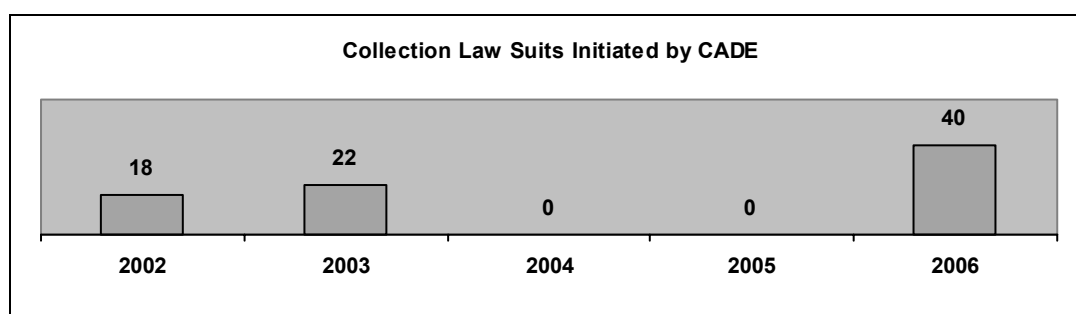
Source: CADE's General Attorney Office.



Source: CADE's General Attorney Office.

* The Collection Procedure referred herein is a kind of preparatory procedure for the judicial lawsuit

¹ There are two main types of fines assessed by CADE: (i) fines collected on a Merger Review, due to untimely notification, and (ii) fines imposed when a company is pledged guilty for an anticompetitive conduct.

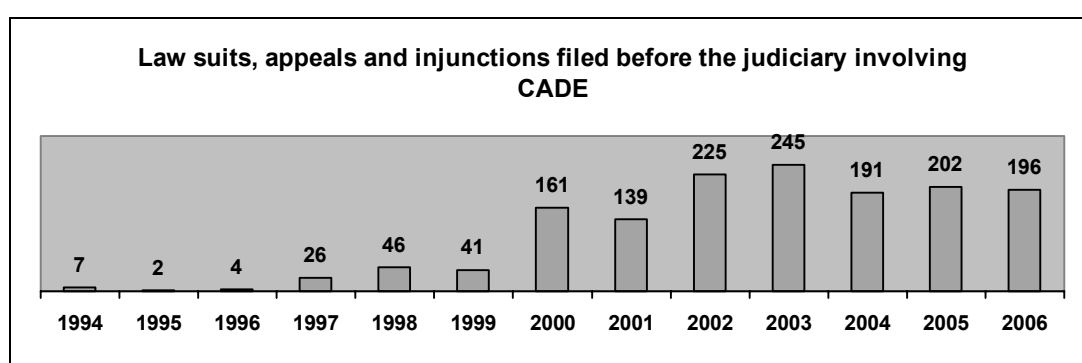


Source: CADE's General Attorney Office.

Courts

20. It is important to note that in 2006, most CADE's decisions have been upheld by the Judiciary as a result of the active role of CADE's attorneys, consisting primarily in presenting themselves personally to the judges, in order to explain the case, sometimes in anticipation of requests by the parties for injunctions that would potentially suspend the effectiveness of CADE's decision, thus preventing such an injunction to be issued.

21. Moreover, CADE won an important case before the appeals court, according to which the law is to be interpreted as to require that judicial review of CADE's decisions is only to be admitted after the parties deposit in a escrow account the total amount of the fine imposed by CADE. This is a landmark court ruling, inasmuch as it tends to decrease the incentives for judicial litigation.



Source: CADE's General Attorney Office.

2.1.2 description of significant cases, including those with international implications

Cartels

22. In 2006, all of condemned cases were cartels. Among the 6 cartel cases condemned, 4 of them were on medical services sector.

23. **Medical Services.** The four cases were condemned for fixing minimum prices, using price charts. One example is the Coopanest-GPA case, in which two cooperatives that gather the majority of the anesthetists of the State of Bahia decided to jointly raise the amount their associated anesthetists received from health insurances. When the health association that hired anesthetist services from the cooperative denied the price increase, the two cooperatives jointly decided to cancel their existing agreements through identical letters, sent on the same date, made on the same computer. CADE condemned the cooperatives for collusion and applied a total fine of USD 94,122.00.

24. **Drive Schools.** The other two cartel cases condemned by CADE, were related to price fixing carried out by driving schools of the city of Santos and, on the other case, by the Driving School Union, both in the State of São Paulo. On the first case, it was observed that the mentioned driving schools, which detained market power, established price charts to their practical and theoretical driving classes. It was also detected that there were punishment mechanisms within the cartel in order to give it more effectiveness.

25. During the investigations of the driving schools, the Brazilian Competition Authorities found out that the Union had published, and maintained on its website, a charter with minimum and maximum prices for driving services, based on a study hired by the Union. CADE understood that the Union influenced the adoption of a collusive behaviour and decided to condemn it for an anticompetitive practice. In both cases, CADE also succeeded to demonstrated market power by the parties. The analysis also included the conclusion that governmental barriers to entry and homogeneity of the product (driving classes) gave the structural conditions for the success of the anticompetitive behaviour. Considering these facts, CADE condemned the parties to pay a fine on the total of approximately USD 20,000 on the driving schools and USD 62,748 for the Union.

Abuse of Dominant Position

26. Most of the unilateral conduct cases were dismissed due to lack of clear evidences of anticompetitive practices. However, three cases were suspended by cease-and-desist agreements² signed between CADE and the parties.

27. **Telesp cases.** The two cases involving the telecommunication company of the State of São Paulo, Telesp, were related to difficulties on the access to telecomm essential facilities. On the first case, Telesp was accused by an internet provider not to allow proper access to its net. On the other case, Embratel, a telecomm company on the national level, accused Telesp of offering discriminatory conditions to the access to its facilities essential to offer dedicated lines services, including customised services, to Embratel, when compared to the conditions offered to the companies of Telesp's group. On both cases, Telesp signed a cease-and-desist agreement with CADE under which Telesp must guarantee access to its lines on a non-discriminatory basis.

28. **Globosat.** Globosat was accused of market foreclosure on the sportive media sector, by refusing to sale its sport channels to other media companies (downstream market), in which it also has dominant position. Globosat used to contract exclusive rights of all most relevant sport events. Inasmuch as the competition authorities understood that sport events were an essential input to sport channels, Globosat holds dominant position in sport channel market (upstream market). CADE understood that the sale refusal would have negative impacts on the downstream market, between television operators. Having this in mind, the Tribunal signed a cease-and-desist agreement with Globosat by which Globosat committed to offer its sport channels in a non-discriminatory basis. CADE also understood that this remedy would have an adverse-side effect on the upstream market since the few competitors in that market would face problems to offer its channels, considering that, as mentioned, Globosat has exclusive rights over all most relevant sport events. To foster competition on the upstream market (production of sport channels),

² Article 53 of the law provides that either SDE (subject to approval by CADE) or CADE itself may enter into an agreement with a defendant to resolve an administrative proceeding. Under such a settlement, the case is suspended if the defendant agrees to cease and desist from the conduct at issue and to provide periodic compliance reports. The agreement does not constitute an admission of liability or guilt by the defendant and entails no monetary penalty, but the case will be reopened and fines assessed if the settlement's terms are subsequently violated. The agreement applies for a specified period of time, at the end of which the underlying administrative case is dismissed if the agreement has been honoured..

Globosat had also to resign exclusivity rights of a set of the most relevant sport events (i.e. mainly soccer championships) for three years.

2.2 Mergers and acquisitions

2.2.1 Statistics on number, size and type of mergers notified and/or controlled under competition laws;

Year	Transactions Reviewed*	Approved without conditions	Approved with conditions	Approved with conditions		Disapproved
				Structural	Behavioural	
2006	402	352 (87,6%)	20 (4,9%)	1 (0,24%)	19 (4,72%)	0

* This figure is net of filings that were not reviewed by CADE because the transaction did not meet the notification filing thresholds or because the parties withdrew the notification.

Source: BCPS, January 2007

Among the 402 mergers analysed

Cases judged under fast track procedure	302	75 %
Average time of analysis	65 days	-
Untimely notification	15	3,73%
Total sanctions imposed for untimely notifications (R\$)	R\$ 2.041.609,88	-

2.2.2 Summary of significant cases

29. **CVRD.** CVRD holds operating concessions for a number of freight railway lines and harbour terminal facilities that provide services both to its own mines and steel production facilities and to other customers as well. Some of the customers served by CVRD's lines are competitors in mining or steel production, a circumstance that has led to a series of cases alleging discrimination by CVRD. Where the discrimination does not involve tariffs regulated by ANTT, CADE has prime jurisdiction. In 2000, CVRD acquired four iron ore mining companies and their associated rail lines in the southeast region of Brazil. CADE decided to jointly analyse seven merger operations involving CVRD. Two of them involved the privatisation process and the sale of participation of one partner called CSN, one of the biggest Brazilian steel producers, and the other five are related to the acquisition of mines and of participation on railroads. SEAE and SDE agreed that adverse effects could arise in both the iron ore and the rail service markets and proposed various remedial conditions to CADE. ANTT, in consultation with SDE, invoked its own statutory authority to issue a precautionary order imposing certain restrictions on CVRD until CADE issued a determination. In 2005, CADE approved the operation with a restriction that CVRD should choose between sale one of its company (which gave to CVRD the control of a strategic railroad) or to sell one of its mines. CVRD appealed to the judiciary against the decision alleging that the decision was taken by the qualified vote of the president and so, although it is established in the Brazilian Competition Law, it was not valid. The judicial decision is still pending.

30. **Sky-DirecTV.** One of the most relevant and recent merger cases in Brazil was Sky-DirecTV that brought together the two largest paid televisions that make use of DTH technology. The case consists in two transactions. First, the acquisition in the U.S. of 34% of the DirecTV by the News Corp, which had participation in the Sky Brasil and was already controller of Fox, one of the most prominent media group. As a consequence, this transaction resulted in horizontal and vertical integration. The second transaction,

the News Corp., that was already a minority shareholder in Sky Brasil, acquired Sky's control from its former partner, Globo Group, the most important media group in Brazil, which remained in the company as a minority shareholder. As a consequence, the second transaction resulted in horizontal concentration and reduced the vertical control of Globo – who provides the majority of differentiated channels with domestic content – in the downstream market. In order to retain some vertical control in the downstream market, Globo preserved contractually some decision rights regarding the transmission of domestic content in the merged company. The transaction has an effect on the relevant market of paid television, which includes the service provided by means of other technologies, such as cable TV and MMDS. The primary preoccupation was the horizontal concentration that resulted from the merger, particularly in regions where cable TV or MMDS were not available. The merger also had some vertical implications that required appropriate remedies: First, the News Corp. by means of its subsidiary Fox, which directly controls the merged company, is a major competitor in the provision of content (channels) for paid television. As a consequence, it could use its vertical control in order to preserve its dominant position in both markets. Second, as already mentioned, Globo, which holds dominant position in the provision of domestic content, could use its decision rights on transmission in the merged company in order to block entry in its upstream market (domestic content). In short, the decision required Globo to withdraw its decisions rights on the line up of Sky-DirecTV and restricted Fox to acquire relevant irreproducible input for differentiation in the domestic market of media content, particularly the exclusive rights on sports events, such as the transmission of Brazilian soccer leagues. A similar restriction was imposed to Globo in a conduct case related to the market of sport channels.

31. **Petrobras / White Martins JV.** Petrobras (the biggest Brazilian petroleum company) and White Martins set up a joint venture in order to explore the incipient market of Liquefied Natural Gas (LNG), under the name of “Gemini Project”. White Martins holds dominant position in industrial gas market, although is an entrant in the energy market. Petrobras controls the pipeline infrastructure for natural gas transportation, as well Brazilian production of gas and importation from Bolivia, the main foreign source of natural gas. Petrobras is also monopolist in Liquefied Petroleum Gas (LPG), the primary substitute for LNG. Although Brazil has a regulatory agency for Petroleum and Gas (ANP), it does not regulate prices of both natural gas and LPG. As a consequence, it was found quite plausible that Petrobras might be able to deter entry in natural gas distribution, and for future competitors in the supply of LNG. The transaction promotes significant efficiencies and benefits to consumers. It is a new product, granting access to energy from natural gas for consumers that were located in regions where density was not sufficient for direct distribution by means of pipelines. Moreover the investments in plants for liquefying natural gas are specific to the transaction, requiring close coordination and safeguard to hold-up, which makes vertical integration an efficient governance structure for reducing expected transaction costs. Inasmuch as efficiencies are huge and quite evident, the BCPS chose a remedy for attenuating the risks for competition, whereas maintaining the expected efficiency benefits. The major concern was that Petrobras could favour its joint venture with White Martins by raising the price of natural gas for distributors of LNG or natural gas. In addition, the joint venture was offering take-or-pay long-term contracts that could block entry of potential entrants (Aghion and Bolton, 1987). Instead of a structural remedy, that would certainly harm the efficiency benefits, CADE proposed the transparency of prices and contracts to potential entrants and to the agency itself, aiming to reduce the costs of identifying and prosecuting an unlawful conduct.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

32. Considering the relative recent development of competition in Brazil, the BCPS carries out several competition advocacy activities in order to spread out competition principles throughout the public and private sectors. Especially since 2000, SDE, SEAE and CADE have concentrated efforts in disseminating competition values within the government and throughout the Brazilian civil society.

33. During 2006, the competition advocacy role performed by the BCPS encompassed a variety of initiatives that ranged from intensive media campaigns to the participation in task forces with different governmental bodies. The BCPS has emphasised its competition advocacy function within the government, aiming to insert competition principles into other policies, especially trade and sectoral regulatory policies.

34. In the scope of trade policy, the main role of the BCPS is to assure that trade policy instruments are coherent with competition policy principles. Concerning the contact with trade policymakers, it happens mainly through the participation of SEAE in the Chamber of Foreign Trade (Câmara de Comércio Exterior – CAMEX). CAMEX is an institution, which is part of the Government Council of the Presidency of the Republic of Brazil and aims at coordinating and formulating activities and policies related to the foreign trade of products and services in Brazil, including tourism. CAMEX is the forum where both the competition advocacy and the interface between trade and competition take place.

35. SEAE plays an advisory role in Brazilian trade proceedings dealing with dumping and unfair import competition. In 2006, SEAE's analysis of the Brazilian Portland cement market led to the suspension of the antidumping measure in that market. SEAE recommended CAMEX to drop the existing measures as means of promoting competition in the industry in the north of Brazil, since there was only one producer of Portland cement in the region, prices were higher than in other parts of the country and the antidumping measures represented a barrier to imports from Mexico and Venezuela. In November 2006, CAMEX suspended the antidumping measure for the state of Roraima.

36. Brazilian competition authorities also have an important role in the development of sectoral regulatory policies. The Brazilian Antitrust Law applies to all economic sectors, including the regulated ones. The competition authorities are responsible for its enforcement³ and they work in cooperation with the regulatory agencies (sectoral regulators). In general, in regulated markets, the regulatory agencies also issue advisory reports on competition matters, especially on merger cases, to be sent to CADE, which always has a final say in competition cases. On conduct cases, the BCPS may - and usually it does - request the regulatory agency's opinion.

37. Coordination and consistency between sectoral regulators and the competition authorities are made through cooperation agreements, participation in regulatory forums and through competition advocacy initiatives, especially by SEAE's commentaries on regulations proposed for adoption by sectoral regulatory agencies.

38. SEAE, SDE and CADE have all developed cooperation agreements with sectoral regulators. CADE, specifically, had cooperative agreements with ANATEL (telecommunications), ANS (health insurance), ANP (oil) and ANEEL (energy). In general, the agreements specify the relationship between the BCPS bodies and the sectoral regulatory agencies. Additionally, they refer to training programs and they discipline the exchange of information between the parts.

39. Representing the Ministry of Finance, in 2006, SEAE had an intensive participation in governmental forums responsible for sectoral regulatory policies, some of which were:

- in the air sector; technical commissions of the National Council of Civil Aviation (CONAC);

³ Notwithstanding, in the telecommunication sector, the law states that ANATEL is the agency responsible for the investigation of mergers cases, and thus is responsible for preparing the reports to be sent to CADE. In those cases, SEAE and SDE only issue opinions if specifically requested by a Commissioner.

- in the telecommunication area, the Development Committee of the Brazilian System of Digital Television (SBTVD-T);
- in the energy sector, the National Council for Energy Policy (CNPE) and the Interministerial Council for Sugar and Alcohol (CIMA).

40. During the year, SEAE issued non binding opinions, most of them during the public consultation phase, for each of the eleven following sectoral regulations – especially from regulatory agencies – and one recommendation, assessing their competition impact:

1. ANCINE's draft regulation on general rules for the Brazilian Cinema Subsidy Program for 2006/2008;
2. ANCINE's draft regulation on technical infrastructure projects for the movie theatres market;
3. ANEEL's draft regulation on the tariff review methodology of the electricity distributors;
4. ANTT's public hearing on promotional tariffs in the interstate and international road passenger transport service;
5. ANEEL's proposed methodologies for the tariff review of the electricity distributors;
6. ANAC's draft regulation for the setting of time schedule of flights at the major airports;
7. ANTT's draft instruments on federal road concessions;
8. the Traffic Department of the State of Rio Grande do Sul's regulation on prices control of Drivers Formation Centers;
9. the Traffic Department of the State of Santa Catarina's regulation on prices control of Drivers Formation Centers;
10. ABNT's recommendation, which caused negative competition implications in the concrete market;
11. ANTT's proposal of price rise of interstate transport.

41. In sum, the BCPS promotes competition in regulated markets by several ways, particularly by analysing proposed sectoral regulations, publishing studies of competition in specific regulated sectors and developing partnerships with sectoral regulators through cooperation agreements and participation in regulatory forums, seminars and other discussions.

4. Resources of competition authorities

4.1 Resources overall (current numbers and change over previous year):

4.1.1 Annual budget (in your currency and USD)

Annual budget*			
	Administrative Council for Economic Defence – CADE	Secretariat for Economic Monitoring - SEAE	Secretariat for Economic Law - SDE
Brazilian Real (R\$)	9,3 million	4,5 million	2,4 million
U.S. Dollars (US\$)	4,3 million	2,06 million	1,1 million

4.1.2 *Number of employees (person-years)*

Number of Employees			
	Administrative Council for Economic Defence CADE	Secretariat for Economic Monitoring SEAE*	Secretariat for Economic Law SDE
Economists	12	37	09
Lawyers	36	11	22
Other professionals	20	27	06
Total Technical Staff	55	80	37
Support staff	108	85	35
All staff combined	163	165	72

* It includes trainees.

4.2 *Human resources (person-years) applied to*

Application of human resources			
	Administrative Council for Economic Defence - CADE	Secretariat for Economic Monitoring SEAE	Secretariat for Economic Law SDE
Enforcement against anticompetitive practices	CADE does not assign a separate staff for enforcement activities.	8	26
Merger review and enforcement	CADE does not assign a separate staff for merger control.	14	11
Advocacy efforts	CADE does not assign a separate staff for advocacy efforts.	58	SDE does not assign a separate staff for advocacy efforts

4.3 *Period covered by the above information: January 1st, 2006 – December 31st, 2006*5. **Summaries of or references to new reports and studies on competition policy issues**

42. In 2006, the SDE issued five main reports on competition policy, as follows:

- SDE and ANPEC commissioned studies related to the health sector, as well as other sectors, in order to establish criteria to define relevant markets;
- The *Quantitative Methods Unit* developed a methodology to examine vertical restrictions and their potential harm to consumer welfare;
- The *Quantitative Methods Unit* developed a methodology to estimate the minimum variable scale and the barriers to entry into markets involving supermarkets;
- SDE issued a report analysing the potential anticompetitive effects of air routes' allocation;

- The *Quantitative Methods Unit* developed a technical report on the pharmaceutical market, clarifying the criteria to define relevant market.

43. In the year, SEAE produced 13 working papers on competition policy and its interface with trade and regulatory issues, all available on its website. Except for the paper “Unbundling policy in telecommunications: a survey”, whose text is in English, all the others are in Portuguese and their titles are translated, here, to English, as follow:

1. “Public interest: criteria to consider in antidumping investigations”;
2. “Gambling regulation in North America: an introductory analysis”;
3. “On the efficient use of the radioelectric spectrum”;
4. “Networks neutrality: the future of the Internet and the institutional mix”;
5. “Economic and legal issues of cartels on the retail of fuel: an investigation agenda”;
6. “An analysis of the regulation of the market for health products”;
7. “Mergers and acquisitions in the Brazilian foods and drinks industry: market power effect and efficiency effect”;
8. “Studies on the regulation of the Brazilian health insure sector”;
9. “Interaction between antitrust and antidumping: problem or solution?”;
10. “The recovery of the regulatory reform in Brazil: a fundamental step to sustained economic growth”;
11. “The tariff regulation and the behaviour of the controlled prices”;
12. “The flexibility process and the mergers and the cooperation agreements in the air passenger transportation market”.

44. The “*Revista de Direito da Concorrência*” (Competition Law Review) is a technical publication aimed at professionals involved in the antitrust practice as well as an academic audience. It is jointly published by IOB – *Informações Objetivas Publicações Jurídicas Ltda.* (a Thompsom Corporation) and CADE.

45. The history of the *Revista de Direito da Concorrência*, the Competition Law Review, started in 1975, when its predecessor, called *Revista de Direito Econômico*, began to be edited three times per year by CADE. Between 1975 and 2004, the publication was renamed and had the regularity of its releases changed, following some periods of no publication, until it took its current name in 2004 and began to be issued quarterly, as a result of the joint venture with IOB, starting with a Special Edition in March 2004.

46. Also in 2004, the Review’s Publishing Board adopted new guidelines for the publication, in order to conform the Review to the criteria of classification of the *Coordenação de Aperfeiçoamento de Pessoal de Nível Superior* – Capes, a criteria nationally adopted for the classification of all technical reviews and journals.

47. As part of this ongoing project, the Review was reformulated in its structure, as well as in its content. In structural terms, the Review will have an Associate Editor, who will be responsible for assisting the Publisher, amongst other attributions. As to the content adequacy, one of the first actions, still in progress, is the formation of a group of scholars which will be responsible for revising and evaluating, under a double blind review system, the papers submitted to the Publishing Board for publication with respect to the quality of their content as well as their adequacy to the goals of the Review.

Articles published at “*Revista de Direito da Concorrência*”, CADE-IOB

REFERENCE TERM	SUBJECT	Author
JANUARY TO MARCH, 2006.	<i>WE PROTECT COMPETITION, YOU PROTECT COMPETITORS</i>	Eleanor M. Fox
	<i>ASPECTS OF BRAZILIAN COMPETITION POLICY</i>	Gesner Oliveira; Cinthia Konichi Paulo
	<i>PERSPECTIVAS DA POLÍTICA DE CONCORRÊNCIA NO BRASIL: O CONTROLE DE FUSÕES E AQUISIÇÕES</i>	José Tavares de Araujo
	<i>ANTITRUSTE E A BARGANHA COLETIVA NO MERCADO DE SAÚDE COMPLEMENTAR</i>	Daniel K. Goldberg
	<i>PRÁTICAS TRIBUTÁRIAS E ABUSO DE PODER ECONÔMICO</i>	Tercio Sampaio Ferraz Junior
APRIL TO JUNE, 2006.	<i>ELEMENTOS PARA A CARACTERIZAÇÃO DAS VENDAS CASADAS COMO INFRAÇÃO À ORDEM ECONÔMICA</i>	Paulo Eduardo Lilla
	<i>A ANÁLISE DA RESTRIÇÃO VERTICAL – RECUSA DE VENDA NO CONTROLE DE CONDUTAS INFRATIVAS À ORDEM ECONÔMICA NOS TERMOS DA LEI Nº 8.884/94</i>	Eduardo Molan Gaban
	<i>BUILDING COMPETITION POLICY REPUTATION: THE RELATIONSHIP BETWEEN COMPETITION AUTHORITIES AND THE JUDICIARY</i>	Elizabeth Maria Mercier Querido Farina, and Rubens Nunes
	<i>A REGULAÇÃO DO SETOR DE GLP NO BRASIL</i>	José Tavares de Araújo Junior

48. In relation to its participation in the OCDE’s roundtables in 2006, the BCPS produced the following five written contributions:

- Roundtable on prosecuting cartels without direct evidence of agreement (DAF/COMP/GF/WD(2006)37);
- Roundtable on concessions (DAF/COMP/GF/WD(2006)33);
- Roundtable on environmental regulation and competition (DAF/COMP/WD(2006)38);
- Roundtable on competition, patents and innovation (DAF/COMP/WD(2006)53);
- Roundtable on competition and regulation in retail banking (DAF/COMP/WP2/WD(2006)61).

49. Annually, all the three bodies published official Annual Reports:

Articles Published by CADE's Commissioners in 2006

- AZEVEDO, P. F.; CHADDAD, Fábio Ribas. Redesigning the Food Chain: Trade, Investment and Strategic Alliances in the Orange Juice Industry. *International Food Agribusiness Management Review*, College Station-TX EUA, v. 9, n. 1, p. 62-76, 2006.
- SOUZA, Zilmar José de; AZEVEDO, P. F.. Energia Elétrica excedente no setor sucroalcooleiro: um estudo a partir de usinas paulistas. *Revista de Economia e Sociologia Rural*, Brasília-DF, v. 44, n. 2, p. 20-35, 2006.
- SILVA, Vivian Lara dos Santos; AZEVEDO, P. F.. Contratos Interfirmas em diferentes ambientes institucionais: o caso McDonald's França versus Brasil. *RAUSP. Revista de Administração*, v. 41, p. 381-393, 2006.
- AZEVEDO, P. F.; ALMEIDA, S. F.. Poder Compensatório: coordenação horizontal na Defesa da Concorrência. In: XXXIV ENCONTRO NACIONAL DE ECONOMIA, 2006, Salvador. Anais. Brasília: Anpec, 2006. v. 1. p. 1-20.
- POLITI, R. ; AZEVEDO, P. F. . Concorrência e estratégias de precificação no sistema agroindustrial do leite. In: XLIV Congresso da Sociedade Brasileira de Economia e Sociologia e Rural, 2006, Fortaleza. Anais. Brasília: Sober, 2006. v. 1. p. 1-20.
- LOURENZANI, A. E. B. S.; SILVA, Andrea Lago da ; AZEVEDO, P. F. . O Papel da Confiança na Construção de Ações Coletivas: um Estudo em Redes de Suprimentos de Alimentos. In: EnANPAD 2006, 2006, Salvador. Anais. Brasília: ANPAD, 2006. v. 1. p. 1-20.
- POLITI, R.; ZAMBALDI, F.; AZEVEDO, P. F.. Inovação Tecnológica e o Sistema Agroindustrial do Leite: um Estudo Comparativo entre os Padrões de Concorrência dos Mercados de Produto Longa Vida e Pasteurizado. In: EnANPAD 2006, 2006, Salvador. Anais. Brasília: ANPAD, 2006. v. 1. p. 1-18.
- CABRAL, Sandro; AZEVEDO, P. F.. Sobre a Terceirização de Prisões na Bahia: Público versus Privado. In: EnAPG 2006, 2006, São Paulo. Anais. Brasília: ANPAD, 2006. v. 1. p. 1-20.
- BADIN, Arthur *et. al.* Os bancos de dados de proteção ao crédito, o CDC e o PL 5.870/2005: comentários sobre direito e economia. *Revista de Direito do Consumidor*. out/dez 2006. RT. São Paulo.
- SOUZA, Zilmar José de; AZEVEDO, P. F.. Protocolo de Kyoto e Co-Geração no Meio Rural: Configuração Institucional e Organizacional e Perspectivas. In: AGRENER GD 2006 6º Congresso Internacional sobre Geração Distribuída e Energia no Meio Rural, 2006, Campinas. Anais. Campinas: Unicamp, 2006. v. 1. p. 1-15.
- SICSU, A. B.; SILVA, Carlos Alberto da; BOLAÑO, César Ricardo Siqueira ; SILVA, Luiz Marcos de Oliveira ; LOPES, Vaneide Ferreira . Para uma Análise Comparativa das Cadeias Produtivas da Saúde de Aracaju e Recife: uma primeira aproximação. *Revista Econômica do Nordeste*, Fortaleza, v. 37, n. nº 2, p. 187-203, 2006.
- SICSU, A. B.; ROSENTHAL, David. Apresentando um Texto Paradigmático. *Revista Brasileira de Inovação*, Rio de Janeiro, v. 5, n. 1, p. 9-15, 2006.

SANTOS, R. R. Schramm, F ; Alcoforado, A. F. P. ; MEDEIROS, Denise Dumke de; SICSU, A. B.. O uso de energia oriunda de fontes renováveis nas indústrias brasileiras: uma questão de sustentabilidade. In: XIII SIMSEP - Simpósio em Engenharia da Produção, 2006, Bauru. XIII SIMPEP - 2006, 2006.

OLIVEIRA, E. S.; SICSU, A. B. . Diagnóstico do cenário atual de agronegócio: um arranjo produtivo local de flores tropicais em Alagoas. In: XIII SIMSEP - Simpósio em Engenharia da Produção, 2006, Bauru/SP. XIII SIMPEP - 2006, 2006

SICSU, A. B.; BOLANO, Cesar R S . Economia do Conhecimento e Desenvolvimento Regional. Recife: NEAL/UNICAP, 2006

SICSU, A. B.; PADILHA, Maria Fernanda F G. Economia de Pernambuco: transformações recentes e perspectivas no contexto regional globalizado. Recife: NEAL - Universidade Católica de Pernambuco, 2006.

Books Released by CADE's Commissioners in 2006

AZEVEDO, P. F.; SILVA, Vivian Lara dos Santos . Governance Inseparability in Franchising: Multi-case Study in France and Brazil. In: Cliquet, G.; Hendrikse, G.; Tuunanen, M.; Windsperger, J.. (Org.). Economics and Management of Networks: Franchising, Strategic Alliances, and Cooperatives. 1 ed. Heidelberg: Physica-Verlag, 2007, v. 1, p. 97-116.

SICSU, A. B.; SILVA, Alexandra Rodrigues P da . Pernambuco no contexto de transformações.. In: Evânia Pincovsky; João Luiz Correia Junior; Luiz Ricardo da Fonseca Wanderley; Newton Darwin de Andrade Cabral; Silvio Romero de Melo Ferreira. (Org.). Pe. Theodoro Paulo Severino Peters, S.J.: Itinerário de uma Missão 1986-2000. Recife: FASA, 2006, v., p. 147-164.

SICSU, A. B.; HULAK, Maria Helena. Ciência e Tecnologia em Pernambuco: Situação Atual, Perspectivas e Limites ao crescimento. In: Gustavo Maia Gomes. (Org.). Economia de Pernambuco: uma contribuição para o futuro. Recife: Secretaria de Planejamento, 2006, v.

SICSU, A. B.; HULAK, Maria Helena. Planejamento e Tecnologias Ambientais: Perspectivas e Limites ao Crescimento. In: Gustavo Maia Gomes. (Org.). Economia de Pernambuco: uma contribuição para o futuro. Recife: Secretaria de Planejamento de Pernambuco, 2006, v.