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**Market Studies and other Market Analysis Tools for Competition Authorities – Note by
Portugal**

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More documentation related to this discussion can be found at: oe.cd/msmat.

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1. Introduction

1. The Portuguese Competition Authority (Autoridade da Concorrência – AdC) combines enforcement powers with advocacy tools to address barriers to competition across sectors.
2. Market studies and sector inquiries have become a central instrument for diagnosing obstacles to competition and for issuing recommendations that promote competition and efficiency. The AdC also publishes issues papers to respond swiftly to new challenges, emerging trends or other pressing issues, including those posed by digital services. Furthermore, the AdC issues recommendations, contributions and opinions to target specific policy proposals or initiatives that may have the potential to change market dynamics.
3. Portugal does not have binding market investigation powers. As such, advocacy outcomes depend on the willingness of policymakers to implement reforms. The AdC has sought to mitigate this by producing evidence-based analyses and systematic follow-ups to ensure its recommendations remain visible.
4. The present note outlines how the AdC uses its advocacy toolbox, which includes market studies; what powers it relies on to conduct these; what outcomes can be achieved; and, the role of these in conjunction with other investigatory powers available to the Authority.

2. AdC's advocacy powers

5. The AdC is entrusted with powers to conduct market studies and sector inquiries under Article 61 of the Portuguese Competition Act (PCA)¹ for the purpose of supervising and monitoring the markets, as well as for the verification of circumstances that may indicate distortions or restrictions to competition.
6. Within these powers, the AdC may request all information it considers relevant from a competition law perspective from any undertaking, association of undertakings, person or entity within its jurisdiction, applying the provisions of Article 43 of the PCA (power to take statements and request information). This provision allows the Authority to question any person, whether legal or natural, either directly or through their legal representative, whose statements it deems pertinent, as well as to request any documents and other information necessary to carry out its inquiry or study. For that purpose, the AdC provides a detailed justification substantiating the request.
7. Whenever there are circumstances that point towards distortions or restrictions to competition, the AdC can also make examinations and audits necessary to identify the causes. When carrying out examinations and audits in any undertaking or association of undertakings, the AdC must obtain consent from the entity concerned.
8. If the sector is regulated, the AdC is legally bound to request a non-binding opinion from the respective national sectoral regulatory authority (NRA) to be provided within a

¹ Law No. 19/2012, of 8th of May, amended by Law No. 17/2022, 17th of August.

reasonable deadline. Failure to meet the deadline does not preclude the conclusion of the AdC's work.

9. Without prejudice to safeguarding potential confidential information, all conclusions resulting from a market study or sector inquiry must be published on the AdC's website and may be preceded by a public consultation.

10. In the context of its advocacy powers, the AdC's recommendations are not legally binding and, as such, these do not impose structural and/or behavioural remedies. Under the AdC's enforcement powers, remedies can be imposed under the merger control regime and as part of antitrust decisions. However, those remedies are only applicable and enforceable against the market participant concerned, and not against the whole market.

11. While binding market investigation powers exist in other jurisdictions, the Portuguese model relies on the combination of advocacy-based recommendations and enforcement actions. When a study uncovers evidence of unlawful conduct, the AdC may exercise its investigatory powers under the Portuguese Competition Act.

3. Market studies as one of the tools in the advocacy toolbox

12. The AdC has developed a practice of combining broad market studies with the issuance of targeted recommendations at opportune moments in public debate. This approach aims to enhance the effectiveness of its advocacy efforts.

13. Altogether market studies, recommendations and opinions cover a broad range of sectors, asserting the broad, cross-cutting, economy wide approach the Authority cultivates.

3.1. Market studies

14. The objectives of market studies are threefold: (i) to identify barriers to entry and expansion in a given market or sector; (ii) to recommend reforms that address these barriers, improving competition and unlocking gains in efficiency, innovation, and consumer welfare; and (iii) to contribute to the enforcement pipeline of the AdC whereby the AdC may take enforcement action in case of indicia of restrictive practices.

A recent example of an investigation, which ultimately resulted in a fine of around 14M €, is the 2024 case of abuse of dominant position in the access to domestic payment schemes. This investigation resulted from evidence collected in a Fintech sector inquiry in 2020, which followed an in-depth market study conducted in 2018 (see Box 1, below, for further details).

Box 1. Fintech sector inquiry and resulting investigation into abuse of a dominant position

In October 2018, the AdC published an Issues Paper in which it analysed the market entry conditions face by operators whose business models are based on technologies applied to the financial sector (dubbed FinTech), with a focus on payment services and crowdfunding².

² [EPR/2018/33](#), final version published in October 2018.

As regards the payment services sector, the AdC identified risks of market foreclosure insofar as FinTech operators' access to certain crucial inputs (e.g. customer account data, payment settlement and clearing systems) depended on incumbent operators, such as banks. As such, the AdC put forward recommendations to mitigate the barriers to entry and expansion that it had identified.

In 2020, the AdC launched a questionnaire to FinTech operators to collect their views on recent market developments and the persistence of barriers to entry and expansion it had previously identified. To this end, among other elements, the AdC sent, between July and September, a questionnaire to 139 FinTech companies, obtaining responses from 88 companies. Following this inquiry, in March 2021, the AdC published a follow-up report on the recommendations issued in its 2018. The AdC concluded that obstacles to the development of competition persisted in the sector and that the full implementation of most of the measures recommended by the AdC was still pending³.

From the interaction with FinTech operators, indicia of a possible restrictive practice were gathered which led to the opening of a procedure in November of 2020. Following the investigation, the AdC adopted a final sanctioning decision for abuse of a dominant position through tying under the terms of Article 11 of the Portuguese Competition Act and Article 102 of the TFEU⁴. The case is still pending judicial review.

15. Conversely, advocacy tools may also be used after the adoption of a sanctioning decision by the AdC to follow up potential concerns identified in a specific market.

16. Market studies allow competition authorities to examine broader competition issues in a market or a sector. When conducting market studies, the AdC may assess structural characteristics such as network effects, as well as conducts on the market, both from the demand and the supply side.

17. Market studies frequently involve detailed economic and legal analyses. Information requests, surveys to consumers and meetings with key stakeholders are key sources of evidence. To gather benchmarking information from other countries, AdC regularly uses cooperation mechanisms, namely those within the European Competition Network.

18. The AdC may also conduct initial calls for information. For example, in July 2025, the AdC launched a call for information to all interested parties, such as consumers, public entities and firms, aimed at gathering information regarding potential difficulties from consumers when searching for and comparing different banking or financial products, as well as potential frictions involved in account switching⁵.

19. Market studies are designed to help the AdC advocate for pro-competitive legislative and regulatory reform. Therefore, the legal obligation of NRAs to provide an opinion on the AdC's market studies aims at ensuring coordination and better-informed recommendations, contributing to their effective implementation.

³ [EPR/2019/2](#), final version published in March 2021.

⁴ [PRC/2020/5](#), infringement decision published in March 2024.

⁵ See [here](#).

20. Together with inputs received through public consultation, the feedback provided by NRAs help translate AdC’s findings and recommendations into concrete legislative or regulatory actions.

21. For example, one of the most recent studies, published in 2024, on the electric vehicle recharging sector, benefitted from a wide range of contributions from different stakeholders, including the energy services regulator. Following this market study, in August 2025, several recommendations were implemented by the legislator (see Box 2, below, for further details).

Box 2. Market study on “Competition and electric vehicle recharging in Portugal”⁶

In October 2024, the AdC published the final version of the study “Competition and electric vehicle recharging in Portugal”, which included nine recommendations aimed at addressing a set of barriers identified in the electric vehicle recharging sector.

Among the barriers identified were the barriers to entry in the installation and operation of charge points in motorways, difficulties in the experience of electric vehicle users as regards payment and comparability of prices and the complexity of the electric vehicle recharging organisational model.

Those barriers were potentially conditioning competition and, as such, jeopardising the development and expansion of an electric vehicle recharging network with adequate, efficient and competitive coverage, essential for the adoption of electric vehicles, which have been regarded as one of the key technologies for decarbonising the transport sector.

The study had been subjected to a public consultation, during which the AdC received the opinion of the NRA for energy services (ERSE) and 183 contributions from consumers, the electric mobility network managing entity (EGME), charge point operators (OPCs), electricity suppliers for electric vehicle recharging (CEMEs), electricity sector entities and public entities.

The AdC issued the following recommendations to the Government: (1) promote the simplification of the payment method at the publicly accessible charge points; (2) promote the simplification of the electric vehicle recharging organisational model, integrating the role of the OPCs and the CEMEs; (3) assess the costs and benefits of selecting the EGME through a competitive, open, transparent and non-discriminatory mechanism; (4) impose the obligation that the EGME is independent of the CEMEs; (5) repeal the obligation that the CEMEs are OPCs; (6) repeal the possibility that the (sub)concession contracts for service areas or petrol stations are extended, without a public tender, to the installation and operation of charge points; (7) promote the award of rights to install and operate charge points in motorways through competitive, open, transparent and non-discriminatory mechanisms; and (8) allow that the CEMEs or the OPCs (depending on the electric vehicle recharging organisational model) contract electricity to any economic agent that sells it. Furthermore, the AdC made the following recommendation to the municipalities: (9) promote, in a timely manner, the regional development of the electric vehicle recharging network.

In August of 2025, several of the AdC’s recommendations were (partially or fully) implemented by Decree-Law No. 93/2025, which establishes the new legal regime of the electric vehicle recharging and sought ways to eliminate or mitigate the barriers in the

⁶ [EPR/2023/25](#), final version published in October 2024.

electric vehicle recharging sector identified in the study. In particular, a total of nine recommendations, six of which have been (partially or fully) implemented by the legislator.

22. Studies may be launched at the request of policy decisionmakers, such as the Government or the Parliament⁷, or as a result of complaints submitted to the AdC⁸. They can also be launched *ex officio*⁹, with the sector choice being informed by multiple factors, including the salience of public debate, price and market composition dynamics, announcements of significant investments, trends in innovation or concerns identified as a result of the AdC’s previous work, whether in advocacy¹⁰, antitrust enforcement or merger review.

23. The decision to launch a study arises when, after a preliminary review of publicly available information on a given sector, the AdC (i) perceives that the sector faces potential competition bottlenecks, barriers to entry or lack of competitive dynamics, or (ii) has concerns with potential infringements to competition, and/or (iii) faces new markets and/or innovations that raise questions concerning entry conditions and barriers to competition.

3.2. Issues papers

24. The AdC’s advocacy toolbox also includes *Issues Papers*. The objectives of issues papers are similar to those of market studies, but the later offer more flexibility in terms of adjusting the timing of intervention with that of market developments, and can be particularly useful to raise awareness to potential competition risks. For this reason, this type of tool does not necessarily involve the issuance of recommendations. Instead, they synthesize risks, trends, and possible enforcement or policy concerns.

25. For example, in September 2021, the AdC published an Issues Paper and Best Practices Guide concerning anticompetitive agreements in labour markets¹¹.

26. Issues papers also tend to focus more on raising awareness and highlighting the role of competition to stakeholders, including decision makers and firms. For example, in the context of inflation, the AdC decided that it was key to reach out to stakeholders in Portugal, to raise awareness as to the role of competition in the context of inflation. As such, in August 2022, the AdC published an issues paper on “*Competition and purchasing power in times of inflation*”, with a set of key messages to the Government and to firms¹². Similarly to this approach, in June 2021, the AdC issued a note on the role of competition

⁷ *E.g.*, the market study on the road liquid fuels sector in mainland Portugal ([EPR/2018/27](#)), published in June 2018 or the market study on the bottled liquefied petroleum gas industry in Portugal ([EPR/2017/14](#)), published in March 2017, were both launched at the request of the Secretary of State for Energy.

⁸ *E.g.*, the study on competition in Hemodialysis Care Provision in Portugal ([EPR/2019/7](#)), published in April of 2020, launched following a complaint from the National Association of Dialysis Units, which represents small businesses active in the field of haemodialysis in Portugal.

⁹ As it was the case, for instance, of the study on competition in the electric vehicle recharging market in Portugal ([EPR/2023/25](#)), detailed in Box 2.

¹⁰ *E.g.*, the Fintech Survey of 2020 ([EPR/2019/2](#)) was launched as a result of concerns raised by the Issues paper on the same subject published in 2018 ([EPR/2018/33](#)), as previously explained in more detail in Box 1.

¹¹ [EPR/2021/10](#), published in September 2021.

¹² [EPR/2022/18](#), published in August 2022.

in implementing the economic recovery strategy, with a set of key messages to the Government¹³.

27. Issues papers may also be relevant to enhance the understanding of an emerging competition issue or sector¹⁴, while offering the flexibility to be forward looking and tackle potential competition risks. A recent example is the 2023 Issues Paper on generative artificial intelligence (AI)¹⁵ (see Box 3). This Issues Paper was followed by a short paper series meant to provide ongoing contributions to the evolving debate around competition issues in the generative AI sector. So far, three short papers have been published (see Box 3, below, for further details). The short paper format is part of the AdC's advocacy toolbox to keep pace with the rapid developments or pressing issues in this sector.

Box 3. Issues paper on “Competition and Generative Artificial Intelligence” and Short Papers Series

The AdC has been following the generative AI sector since late-2022. The AdC has published an issues paper on AI in November 2023 and initiated a short paper series on AI in 2024.

In its 2023 Issues Paper, the AdC maps the key determinants that affect the competitive process and anticipates the risks to competition in the Generative AI sector. The AdC concluded that these effects may result in accumulated competitive advantages to digital incumbents, as they already have access to large volumes of data and computing power. These characteristics make markets prone to high levels of concentration. As it is the case with other digital markets, these characteristics may raise risks to competition, particularly exclusionary strategies, in the markets for cloud computing, hardware and generative AI models. As such, the focus of competition in the context of generative AI will lie on the following cornerstones of competition: (i) access to data, (ii) access to cloud computing or specialized hardware and (iii) access to foundation models in Generative AI.

As for the short paper series, the AdC published its first short paper in September 2024, focused on the access and use of data in generative AI and its implications for competition¹⁶. The second paper, from December 2024, covered issues related to access to AI models by downstream third-party AI developers and the role of openness of AI models in promoting competition and innovation¹⁷. The third paper, from July 2025, addresses competition issues related to access to talent in the generative AI sector¹⁸.

¹³ [EPR/2021/15](#), published in June 2021.

¹⁴ *E.g.*, the Issues Paper on Digital Ecosystems, Big Data and Algorithms ([EPR/2019/17](#)), published in July 2019.

¹⁵ [EPR/2023/19](#), published in November 2023.

¹⁶ [EPR/2024/14](#), published in September 2024.

¹⁷ [EPR/2024/23](#), published in December 2024.

¹⁸ [EPR/2025/26](#), published in July 2025.

3.3. Recommendations, contributions and opinions

28. Recommendations are another important advocacy tool.

29. One recent example of a situation where the AdC considered more suitable to issue a recommendation, occurred in 2018, following the adoption of the 4.th Railway Package¹⁹. Here, given the imminent possibility of direct award of public service contracts for passenger rail service to the incumbent, the AdC published a set of recommendations calling on the government to, among other, award such contracts through public tender (see Box 4, below, for further details).

Box 4. AdC's Recommendation in the scope of the liberalization of passenger rail transport services²⁰

In December 2018, the AdC issued a Recommendation to the Government and the Transportation NRA, within the scope of the process of liberalising passenger rail transport.

This matter was then considered at the EU level through the 4.th Railway Package, which determined free access to the railway networks of Member States. The AdC highlighted the importance of implementing this liberalisation process at national level, as it offers significant opportunities to promote competition, benefiting consumers and the State.

The AdC's recommendation focused on the contracting of public passenger rail transport services, namely on i) the award procedure, ii) the duration of the contract and iii) the design of the contract. As regards the award procedure, the AdC emphasized the importance of implementing European legislation, which provides that, as a general rule, from 3 December 2019, the award of public service contracts must be carried out through a competitive procedure. Although European legislation allowed, as an exception, the use of direct award, e.g., to the internal operator (i.e. the incumbent), the AdC considered that this option would likely jeopardize the potential benefits that could be achieved in the context of the implementation of the liberalisation process (among others, lower prices, higher quality, as well as innovation and the introduction of new business models).

The AdC also recommended that, if the decision was made to award this contract by direct agreement (contrary to what it advocated) that, at the end of the contract, an international public tender should be held to award a new public service contract.

Contrary to the Recommendation issued, the Government opted to directly award the public service contract to the incumbent operator in November 2019, for a period of ten years and renewable for a further five.

¹⁹ The 4th Railway Package is a set of six legislative texts adopted by the European Parliament and the Council and designed to complete the single market for Rail services. Its overarching goal is to revitalise the rail sector and make it more competitive vis-à-vis other modes of transport. It comprises two “pillars”: The technical pillar, which was adopted in April 2016, and the market pillar, which was adopted in December 2016.

²⁰ [EPR/2018/35](#), Recommendation published in December 2018.

30. The AdC often contributes to public consultations from, for instance, NRAs²¹. These tend to be shorter and oriented to the consultation questions.

31. *Ad-hoc* recommendations and/or contributions are most often done *ex officio* and may involve, in certain occasions, requests for information, so as to inform the economic analysis, as well as for an opinion of the NRA whenever the sector is regulated. Opinions are usually done by request and target specific policy proposals or initiatives that may have the potential to change market dynamics²².

32. The use of *ad-hoc* recommendations in conjunction with market studies often enables the diagnostic of competition concerns and the formulation of potential corrective measures to competition problems to occur as if asynchronously. For example, while conducting a lengthy market study, the AdC may still issue *ad-hoc* recommendations on any given subtopic of such study to seize an opportunity which would be incompatible with the time still required to finish and publish the full study.

4. Conclusion

33. The AdC has developed a mix of advocacy tools aimed at examining competition issues, outside the context of merger reviews or antitrust investigations. These tools range from short assessments to more lengthy processes involving wider stakeholder input and in-depth economic and legal analysis.

34. In order to enhance the effectiveness of its advocacy efforts, the AdC has developed a practice of following up on its recommendations, highlighting the economic benefits of reforms to strengthen its persuasive force, and reiterate its recommendations to sustain momentum whenever relevant.

35. These tools then form the basis of several outreach advocacy initiatives carried out by the AdC. The Authority pursues a dynamic approach by establishing direct contact with relevant stakeholders, including citizens, public institutions, firms, business associations, and workers' organizations. For instance, the "Competition Plus" initiative, launched at the beginning of 2025, focuses on the dialogue with actors from key economic sectors, such as education, health and construction.

36. The interaction between advocacy and enforcement creates a virtuous circle, ensuring that both structural and conduct-based barriers are addressed.

²¹ See, e.g., AdC's comments on the proposed Electricity Distribution Network Development and Investment Plan for the period 2026-2030 (PDIRD-E 2024) ([EPR/2025/1](#)), issued in January 2025.

²² See, e.g., Opinion of the AdC on Draft Resolution No. 46/XIII/1^a of the Legislative Assembly of the Autonomous Region of Azores" (https://extranet.concorrenca.pt/PesquisAdC/Page.aspx?isEnglish=True&Ref=EPR_2025_35), issued in August of 2025.