

• Portugal: The Competition Authority adopts Guidelines on Fines

Following the entry into force of the new Portuguese Competition Act, Law No. 19/2012 of 8 May 2012, (see ECN Brief 2/2012), the Portuguese Competition Authority (PCA) has adopted new Guidelines on the setting of fines in antitrust procedures (Guidelines). The Guidelines are applicable to procedures both under national law and Articles 101 and 102 TFEU.

The Guidelines aim at promoting transparency and objectivity in the PCA's decisions. They also aim to contribute to legal certainty and to strengthen the deterrence effect of fines.

The Guidelines set out that the method for setting the fines will typically involve the following steps: (i) determination of the basic amount of the fine for each party; (ii) increase or reduction of the basic amount of the fine according to aggravating or mitigating circumstances of the case (as an adjustment of the basic amount); and (iii) increase or reduction of the amount of the fine taking the facts of the case into consideration, including the benefits reaped by parties from the infringement, as well as general or specific prevention objectives required by each case (concrete setting of the fine).

The basic amount of the fine is a percentage of the turnover related to the infringement, determined according to the gravity of the infringement which is multiplied by the number of years of the duration of the infringement.

The Guidelines were approved after a public consultation period in 2012, and take into account the European Commission Guidelines on the method of setting fines.

For further information see www.concorrencia.pt