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

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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN BRAZIL

-- 2007 --

This report is submitted by the Delegation of Brazil to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 11-12 June 2008.

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BRAZILIAN COMPETITION POLICY SYSTEM¹

1. Executive Summary

1. In the last years, the Brazilian Competition Policy System (BCPS) has passed through important changes, aiming above all to improve the prevention and repression of infringements to the Brazilian economic order, as well as competition advocacy.

2. Legal and infra-legal measures were taken to better allocate the available resources and to speed up the investigative and decision-making processes. The communication within the system was improved; transparency and predictability are being addressed through the consolidation of institutional memory and publicised procedures and decisions; international insertion was a central source of technical assistance as well as the main motivator for important changes in the adopted procedures; merger analysis was boosted and the freed resources were re-allocated to illegal practices combat.

3. In this sense, efforts were continued in 2007 – either by the creation of new instruments, and by the development of the ones we had already. The legislation suffered a remarkable change with Law n. 11.842/2007 (referred in topic 1.1), the internal procedures were clarified and boosted, and competition advocacy has succeeded in consolidating a competition culture in Brazil, although yet incipiently. Last, but not least, we had put efforts on the administrative decisions, in order to improving the maintenance of administrative decisions, when subject to judicial review.

4. It must be said, however, that a number of changes remain undone. The Brazilian Competition System must now turn its efforts of competition advocacy to other governmental bodies, specifically towards the Legislative Branch, so that the Draft Bill restructuring the system BCPS might allow the necessary changes to be completed. The Judiciary is also considered as a target of advocacy initiatives as it is being more and more called upon to analyse competition issues.

5. 2007 was yet an important year with respect to unilateral conduct, mainly due to the *Rio Madeira* case, concerning exclusivity agreements between Odebrecht (a construction company) and some turbine manufacturers that would unduly foreclose the participation of a number of companies in an important auction for the granting of a hydroelectric plant concession in the Madeira River, in the Amazon region. After an investigation and the adoption of interim measures by SDE and the settlement of the case with CADE (in parallel with judicial proceedings), the effects of such agreements were suspended and the price

¹ The Antitrust law and practice in Brazil is governed primarily by Law n. 8.884, of 1994, as amended in 2000 and 2007 (the Competition Law). The so called “Brazilian Competition Policy System” (BCPS) is composed of three agencies -- namely, the Secretariat for Economic Monitoring of the Ministry of Finance (SEAE), the Secretariat of Economic Law of the Ministry of Justice (SDE), and the Council for Economic Defense (CADE). SDE is the chief investigative body in matters related to anticompetitive practices and it also issues non-binding opinions in merger cases. SEAE issues non-binding opinion in merger review and it may also issue non-binding opinions related to anticompetitive practices. CADE is the administrative tribunal, composed of seven Commissioners, which takes the final decisions regarding anticompetitive practices and merger reviews.

for the energy in the auction, ultimately won by Odebrecht, was substantially lower than the reserve price, resulting in significant savings for the Brazilian electricity consumers.²

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

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

6. The Brazilian Competition Law had a very important amendment last year, by the enactment of Law n. 11.482, dated May 31, 2007. Before this amendment, CADE or SDE (*ad referendum* of CADE) could settle with the defendants in administrative processes except those related to cartels. Law n. 11.482 altered article 53 of Law n. 8.884/94 – the Competition Law – in order to allow settlements with defendants in proceedings involving all types of anticompetitive practices, including cartel cases, the last under the payment of a fine no lower than the minimum fine applicable in case of conviction. The CADE is the antitrust agency with power to enter into settlements, and the SDE may issue a nonbinding opinion directed to the CADE on whether to settle or not. The first four settlements were executed in November 2007.

7. In 2007 CADE issued three Ordinances, in order to improve transparency and predictability:

- CADE's Ordinance n. 44, which defines the criteria for the calculation and application of the monetary fines related to untimely notification of transactions under the merger control regime. According to this ordinance, the fine imposed must be doubled in case of repeated violation.
- CADE's Ordinance n. 45, which approved CADE's new by-laws. It regulates the procedures and steps involved in the CADE's analysis of all kind of processes (merger control, anticompetitive practices, preliminary injunctions, settlements etc). The new By-Laws aims to clarify and increase transparency on procedures.
- CADE's Ordinance n. 46, which amends CADE's by-laws to harmonise it with the new provisions of Law n. 11.482. The Ordinance provides that the applicant can only try to settle once ("one-shot game"), and the negotiation period is for 30 days, renewable for another 30 days. If the case was initiated using evidence obtained under a leniency agreement, it can only be settled with the admission of guilt. In all other cases, the CADE will decide on a case-by-case basis. The amount to be paid in case of cartels must be at least one per cent of the entire gross revenues of the company in the year prior to the initiation of the investigation. Apart from the minimum sum to be paid provided by the law, the CADE will also take into account the moment in time the company comes forward (the earlier in time, the greater chances to pay a reduced sum).

8. On February, 2005, CADE issued an Ordinance according to which it could, from then on, adopt "understanding briefs" (*súmulas*)³. This instrument intends to institutionalise repeated case law adopted by

² More details about the *Rio Madeira* case below.

³ In 2005, CADE enacted Resolution No. 39 with the purpose of consolidating CADE's case law regarding certain issues by means of the issuance of "understanding briefs" or "position statements." This procedure is already available to judicial tribunals in Brazil. Although such statements are not binding on CADE commissioners, they are strictly followed in practice and provide additional assurance regarding CADE's position on controversial issues.

the Board and, therefore, improve transparency and predictability of the decisions, as well as to speed up the decision-making process. Understanding Brief n. 01, issued in October 2005, limited to the turnover obtained in Brazil the criteria for mandatory merger notification (instead of worldwide turnover). The consequence of the new criterion was a reduction of 46% in the number of notified mergers, releasing human resources to speed up complex merger reviews and to address conduct cases.

9. In 2007 CADE approved two new “understanding briefs”:

- Understanding Brief n. 02, which defines the circumstances in which the notification of an acquisition of minority shareholdings by existing majority shareholders is not mandatory, when the following hypothesis are jointly observed: (i) the seller, under the Law, agreement or company’s by-laws, does not have the power to (i.a) appoint the manager; (i.b) define the commercial policy; (i.c) veto any subject and (ii) in the company’s documents there are no clauses (ii.a.) of no competition for a period higher than 5 years and/or territorial scope broader than the firm’s activities; and (ii.b) from which any kind of control derived from after the operation.
- Understanding Brief n. 03, which defines the dead-line for notification of mergers of which the sole objective is to take part on a public procurement procedure for the grant of a concession.

10. As per SDE, the Minister of Justice issued in May 2007 the Ordinance n. 1,077,, creating a specialised unit within the Secretariat to review bid rigging cases and promote competition in public procurement, as bid rigging continues to be a major concern in Brazil. Additionally, the SDE has worked on the review of Ordinance of the Ministry of Justice n. 04/2006, which (i) regulates the Leniency Program, (ii) clarifies general procedural rules affecting merger review and investigation of anticompetitive practices, and (iii) provides details about the criteria used to calculate the statute of limitations applicable to violations of the Brazilian Competition Law. The new rule is expected to be issued in the second half of 2008.

1.2 Other relevant measures, including new guidelines

11. In 2007, as a result of the two-year adoption of the methodology of analysis based upon an economic filter to detect cartel behaviour in fuel retailing sector, SEAE was able to participate, together with SDE, in two “dawn-raid” proceedings conducted by the Federal Police at firms’ headquarters, associations and offices in the States of Paraíba and Pernambuco (Brazilian northeastern region), and in the State of Paraná (Brazilian southern region).

12. In August 2007, SDE and CADE’s Attorney General Office signed a Cooperation Agreement applicable to transactions recognised at the outset to pose little threat to competition. According to the new procedure, CADE’s Attorney General Office (ProCADE) is exclusively responsible for analysing the formal aspects of the notification, avoiding redundancies, freeing up resources for SDE to concentrate on the analysis of complex cases and speeding up the merger review process. This procedure is applicable to more than 75% of the mergers filed before the Brazilian authorities, and has resulted in a reduction of 32 days in the time of analysis for mergers analysed under the fast-track procedure.

13. In December, 2007, SDE and the Brazilian Federal Police executed a cooperation agreement to exchange information about cartel investigations and jointly fight cartels with effects in Brazil. The agreement also provides for the creation of a formal Anti-Cartel Intelligence Centre, composed of two members of SDE and other two of the Federal Police.

14. Furthermore, in 2007 the SDE started to outline a draft *Leniency Policy Interpretation Guidelines* in order to provide more transparency to the business community with respect to its Leniency Program, which was released in February, 2008.

15. CADE and SDE implemented a major reform in their websites to enhance government transparency and accountability. The new website of SDE (www.mj.gov.br/sde) contains a comprehensive explanation of SDE's activities and the most important documents and opinions released by the agency. The increased transparency is also reflected in the increased number of press releases (in 2007, the number was 50% greater than in 2006). CADE, on the other hand, changed its layout in order to make it more friendly and improved the information and the documents available related to the cases (votes, opinions, decisions etc)

16. The Brazilian Competition Policy System has long been benefiting of an increasing international insertion, by the exchange of experience and information with its foreign counterparts. We can also add to this list the important contribution that a greater participation in international fora and meetings provides to the establishment of an institutional memory, as several questionnaires and enquiries with different approaches must be responded. Besides that, it also facilitates the identification of important strengths and weaknesses in the Brazilian competition policy regime. Moreover, most of the new procedures adopted by the BCPS, as well as those provided for in the new Draft Bill, were inspired on Best and Recommended Practices of the Organisation for Economic Cooperation and Development (OECD) and the International Competition Network (ICN). In 2007, Brazil renewed its observer status in the OECD Competition Committee and CADE became part of the Steering Group of the ICN, keeping its position as Co-Chair, together with Turkey, in the Competition Policy Implementation Working Group. SDE, by its turn, is Co-Chair of the Cartel Working Group.

17. With respect to technical assistance initiatives, in 2007 SDE provided technical assistance to Chile, where a new Competition Act is being discussed by the parliament and important investigative tools such as the power to run dawn raids and to execute leniency agreements are expected to be granted to the competition authority. Additionally, Brazil is, together with Chile, part of the Latin American Bid Rigging Project, organised by the OECD, which aims at improving the capacity of these two countries to tackle bid rigging. SDE, through its newly established Public Procurement Unit, is the main contact point within the Brazilian Government for this program. CADE kept the participation in the partnership program of the ICN, providing technical assistance to El Salvador.

1.3 Government proposals for new legislation

18. Despite the efforts of SDE, SEAE and CADE to improve the System and to adopt international recommended practices by taking infra-legal measures, it is clear that infra-legal changes and other administrative arrangements are limited by Law and they can only be made permanent by means of a new legal framework for the competition policy in Brazil. This new framework can result in greater legal certainty and predictability, as well as a sustainable improvement in efficiency and effectiveness of such policy.

19. In this sense, the Draft Bill providing for the structural reformulation of the BCPS is under analysis by Congress since 2005. It can be said that the Bill was clearly inspired by OECD and ICN Best and Recommended Practices, specially the ones emerged from the three OECD assessments Brazil went through since 2000: an individual review by Mr. John Clark in 2000; a formal OECD Peer Review in 2005; and the Peer Review Follow-up in 2007.

20. The proposed changes consist of, basically, three most important points: (i) introduction of a pre-merger system; (ii) the change on the merger notification criteria; and (iii) the institutional restructuring of the System, by a new distribution of functions within the BCPS.

21. Under the Bill, (i) SEAE receives a competition advocacy mandate; (ii) there is an improvement in the relationship between the BCPS and regulatory agencies; (iii) the Competition Department of SDE is incorporated into CADE, to carry out merger review analysis and investigation of anticompetitive practices; and finally, (iv) CADE keeps its current attribution as an independent administrative 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, the successor of SDE's Competition Department. 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.

22. The proposed amendments would also introduce some new important material features into the Brazilian Competition 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 settlement.

23. These changes intend to provide more celerity in the analysis of conduct cases and merger reviews and to avoid the duplication of efforts among the competition authorities.

24. Acknowledging the necessity of consolidating the System, the President of the Republic has included the Draft Bill for the reform of the BCPS among the priorities of the Growth Acceleration Program (PAC), as an instrument to improve the business environment. In 2007, a special commission was formed to analyse the Bill, and it organised some public hearings with the BCPS, the legal community and competition experts. However, as already said, the Bill is still pending Congressional approval.

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

25. In 2007, SDE made substantial efforts to increase the impact of its enforcement actions, mainly concerning cartels. The combined developments in the previous years of higher fines applied by CADE, establishment of cartel prosecution as a major priority for SDE, increased co-operation with criminal State and Federal Public Prosecutors, and increased transparency of the Leniency Program led to a growing number of leniency applications: approximately 10 agreements were signed since 2003, including with members to international cartels, and many others are currently being negotiated. As a result, the number of search warrants served has significantly increased: from 2003 to 2005, 11 warrants were served and 2 people were arrested without charges; in 2006, 19 warrants were served; and in 2007, 84 warrants were served and 30 people were arrested without charges for a ten-day period.

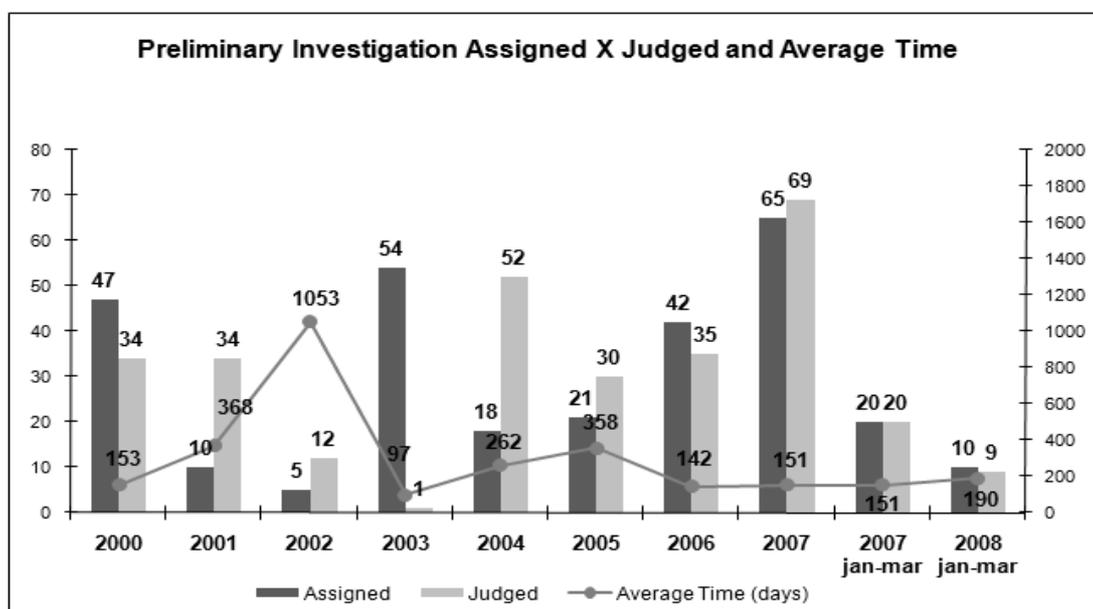
26. In 2007, SDE and SEAE, in cooperation with the local Police and Public Prosecutors, carried out the largest dawn raid in Latin America. Forty-four companies were simultaneously dawn raided and fourteen executives were arrested in the city of Londrina, Southern Region of Brazil, for their role in a

conspiracy to fix prices in the local fuel market. More than 180 officers took part in the dawn raid exercises, and there was an intense cooperation between competition and police authorities.

27. Another important development is that the Judiciary is also seeing cartel as an egregious conduct able to be criminally punished in Brazil. Seven executives were condemned to serve jail terms of two years and six months for their role in a conspiracy to fix prices in local fuel market of the city of Santa Maria (Rio Grande do Sul) in 2007. The decision was issued by Court of Appeals of the Rio Grande do Sul State (*Tribunal Estadual do Rio Grande do Sul*), and is on appeal.

28. Regarding adjudicative functions, in 2007 CADE judged 69 preliminary investigations. The Council dismissed 67 and required SDE to continue the investigation of 02 cases. The average time for judging preliminary investigations by CADE was 151 days after it has been sent by SDE (Please refer to Graphic n.01).

Graphic 1



Graphic n. 01: In 2007, 65 Preliminary Investigations were received, while 69 were judged. The average time for Preliminary Investigation analysis in CADE was 151 days.

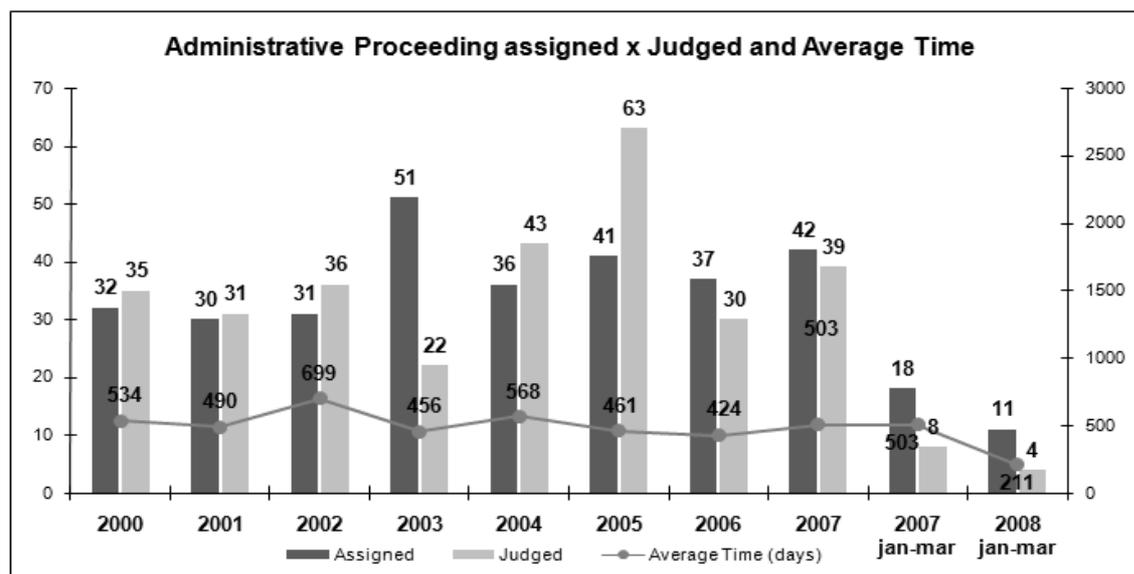
Source: http://www.cade.gov.br/english/apresentacao/graficos/preliminary_investigation.asp

29. As for Administrative Processes⁴, 42 cases of alleged anticompetitive practices were brought to judgment before CADE's Board, 39 of which were judged and 03 were still under the reporting-commissioner analysis. The average time for analysis of Administrative Processes by CADE was 503 days (Please refer to Graphic n. 02 and Table n. 01). Among the judged cases, 11 were convicted, 6 of which were cartel cases and 5, abuse of dominance cases, and 28 were dismissed. The convictions resulted in the imposition of BRL 39.839.543,73⁵ (USD 20.430.535,25⁶) in fines. Yet, three Cease and Desist Agreements⁷ were signed.

⁴ Administrative Processes are formal processes related to anti-competitive practices when there are evidences of the practices and a formal defense is presented.

⁵ Some fines are still pending value calculation, since they depend on the definition of the convicted firms total gross revenue.

Graphic 2



Graphic n. 02 : In 2007, 42 administrative proceedings were received for judgments, while 39 were actually judged. The average time for Administrative Proceedings decisions was 503 days in CADE.

Source: http://www.cade.gov.br/english/apresentacao/graficos/administrative_proceedings.asp

Table 1: 2007 Anticompetitive Practices – decisions

Judged	Dismissed	Convictions in cartel cases	Convictions in abuse of dominance cases	Total of Convictions	Closing of a Preliminary Investigation	Reopening of Preliminary Investigations
39	28 (71,8%)	6 (15,38%)	5 (12,8%)	11 (28,2%)	67 (97,1%)	2 (2,89%)

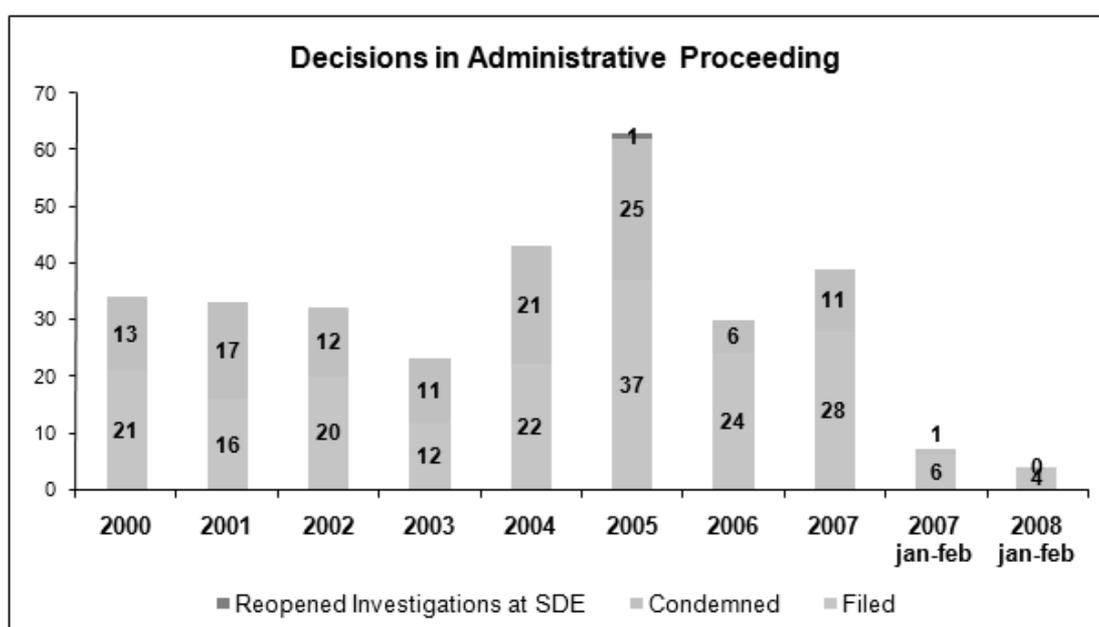
⁶ All the USD values of this report were calculated using the 2007 average exchange rate. 1USD corresponding to 1,95 BRL (Source: Institute of Applied Economic Research - www.ipeadata.gov.br)

⁷ Article 53 of the Competition Law, amended by law 11.482/07, provides that CADE 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 necessarily constitute an admission of liability or guilt by the defendant (unless when the proceeding started with a leniency agreement) and involve monetary penalties (unless when it relates to a cartel), 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 filed if the agreement has been honored.

Table 2: 2007 Anticompetitive Practices Decisions classified by sector

Food and beverage	Telecom and Technology Industries	Pharmaceutical and Hygiene industries	Transports and warehousing	Health Services	Retail	Others General Services=3 Wholesale=1 Financial=1 Insurance=1 Agriculture and livestock=2 Infrastructure=1
2	2	8	3	13	2	9

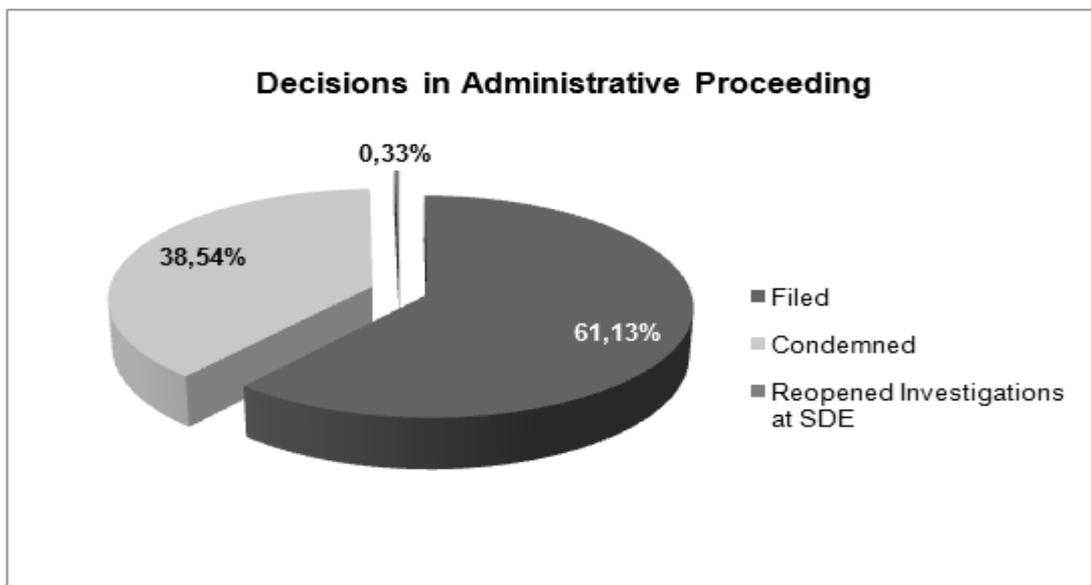
30. Regarding the 39 administrative proceedings judged by CADE in 2007, 11 (28,2%) Council's decisions were for the conviction of the companies involved, while 28 (71,8%) were for the closing of the process (Please refer to Graphic n.03).

Graphic 3

Graphic n. 03: The graphic shows the number of decisions issued by CADE: 42 administrative proceedings were received by CADE in 2007. 39 (92,8%) were judged; among them, 28 were dismissed and 11 of them were found guilty.

31. Since 2000, 61,13% of the administrative proceedings judged were filed; in 38,54% the parties involved were found guilty and only in 0,33% the investigations by SDE had to be reopened.

Graphic 4



Graphic n.04: Percentage division of CADE's decisions in 2007.

Source: CADE

Table 3: Accomplishment of Decisions

Years	2005		2006		2007	
Total of decisions imposing restrictions, penalties or remedies (mergers+conducts)	57		43		67	
<u>Decisions related to the Accomplishment</u> *There are some decisions which accomplishment is not immediate but occurs in a period of time and so may refer to previous years	74		44		54	
Accomplished	44 (59,5%)		28 (63,6%)		38 (70,4%)	
	43 Mergers 58,1%	1 Anticompetitive Practice 1,4%	26 Mergers 59,1%	2 Anticompetitive Practices 4,5%	36 Mergers 66,7%	21 Anticompetitive Practices 3,7%
Not Accomplished	31 (41,9%)		16 (36,4%)		16 (29,6%)	

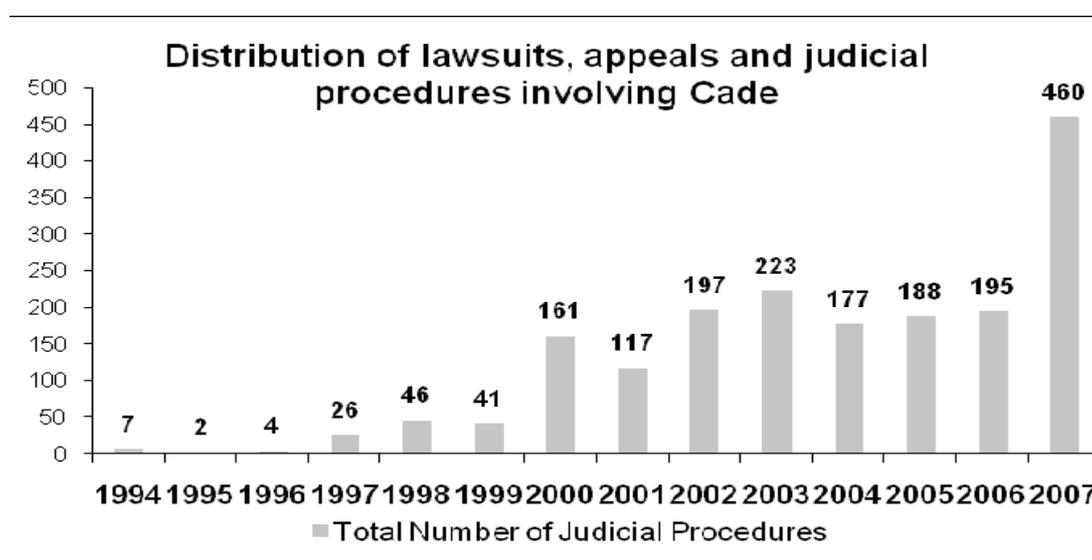
Years	2005		2006		2007	
	8 Mergers 10,8%	22 Anticompetitive Practices 29,7%	5 Mergers 11,4%	11 Anticompetitive Practices 25,0%	9 Mergers 16,7%	71 Anticompetitive Practices 13,0%

Source: CADE's Annual Report

Courts

32. In the last years it has become clear that the Brazilian Competition Policy is going through a process of progressive “judicialisation”. In this sense, competition issues are leaving its original *locus*, CADE, and becoming increasingly present within the Judiciary. This circumstance poses new challenges to CADE and, in particular, to CADE's Attorney General Office, the body responsible for the judicial enforcement of the Board's decisions (Please refer to Graphic n.05).

Graphic 5



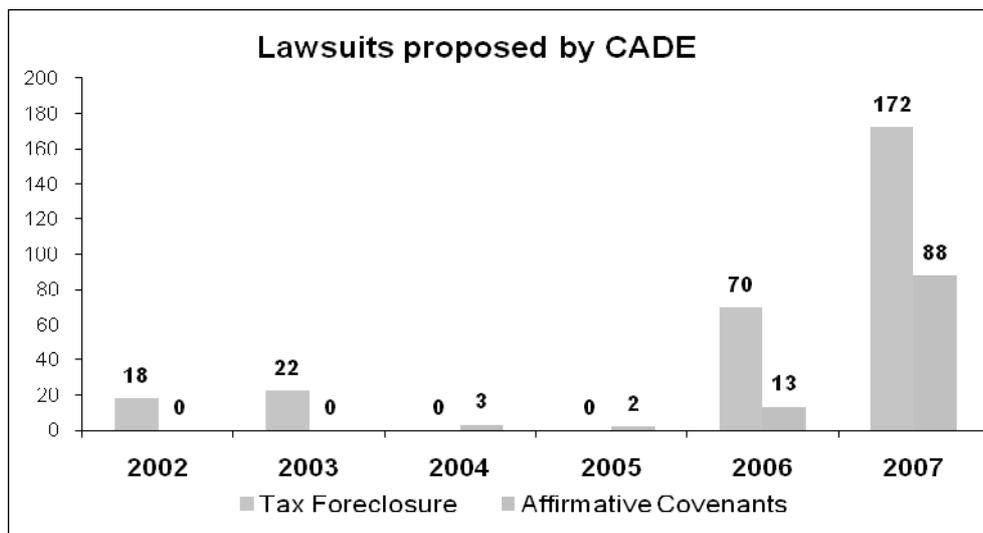
Graphic n.05: As it can be noticed, there is a process of progressive “judicialisation” of competition policy. Such Graphic refers to lawsuits initiated in 2007.

Source: CADE's General Attorney Office.

33. As a response to this “judicialisation”, CADE's advocacy before the Judiciary has been strengthened. In 2007, CADE's Attorney General Office also became more proactive, by proposing more lawsuits - whether to require the payment of fines imposed by the Board, or to determine compliance with remedies imposed (Please refer to Graphic n.06); the follow-up of the judicial processes involving CADE is being really strict and frequently the President or the Commissioners, accompanied by CADE's attorneys, go to Court to explain the merit of the decisions.

34. CADE's Attorney General Office work has been essential in guaranteeing the enforcement of the Council's decisions. The body made a detailed administrative review where some cases were identified in which unpaid fines had not been included into the Federal Executable Debt. The increase in the value of fines imposed by the Council, as well as the close follow up of unpaid fines resulted in a raise of the amount of overdue debts from BRL 59.631.723,16 (USD 30.580.370,85) between 2002 and 2005, to BRL 697.861.259,00 (USD 357.877.568,71), between 2006 and 2007 (Please refer to Graphic n.07).

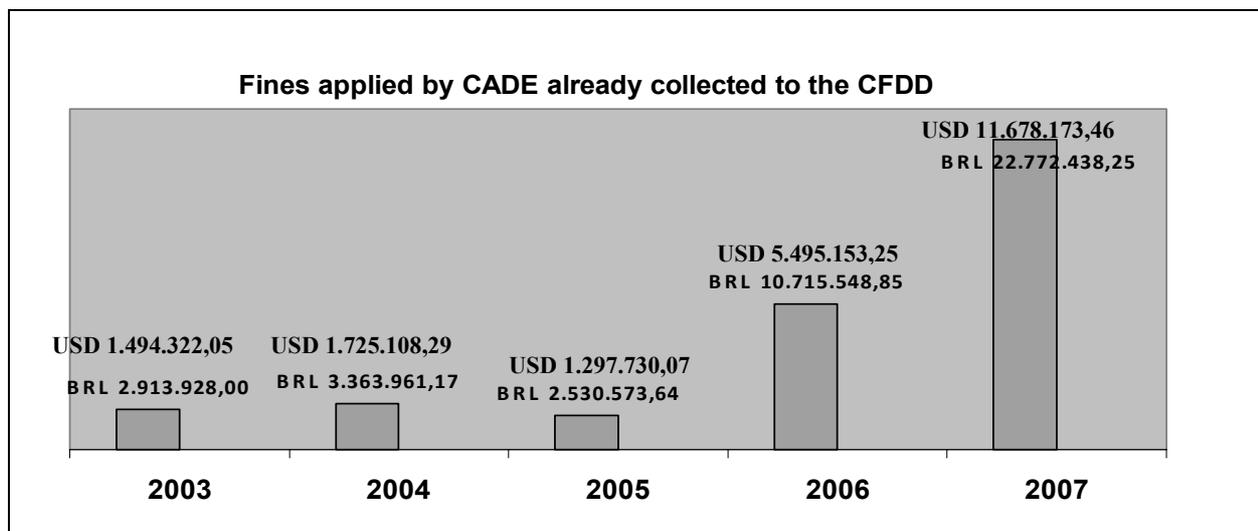
Graphic 6



Graphic n.06: Lawsuits proposed by CADE divided between the requirement for fines payment and enforcement of obligations (remedies) imposed.

Source: CADE's General Attorney Office.

Graphic 7



Graphic n.07: Amount of fines applied by CADE effectively collected to the CFDD (Fund for the Defence of Diffused Rights (“*Fundo Gestor de Defesa dos Direitos Difusos*” or “CFDD”).

Source: CADE's General Attorney Office.

35. CADE's records show that although the Judiciary has granted a number of preliminary injunctions suspending CADE's decisions, it has mostly confirmed the same decisions afterwards. Moreover, in 2006 CADE won an important case based on which the Judiciary only admits appeals against CADE's decisions after the parties have deposited in an escrow account the total amount of the fine imposed by CADE. This decision was considered a turning point in CADE's enforcement.

2.1.2 *Description of significant cases, including those with international implications.*

Cartels

Administrative Process N° 08012.004599/1999-18

Plaintiff: Secretariat of Economic Law – SDE and Secretariat for Economic Monitoring of the Ministry of Finance – SEAE (ex-officio)

Defendant: Aventis Animal Nutrition do Brasil Ltda; F.Hoffman – La Roche Ltda; Basf Aktiengesellschaft; La Roche Ltda.

Reporting Commissioner: Commissioner Ricardo Villas Bôas Cueva

Refer to:

http://www.cade.gov.br/ASPIntranet/andamento_frame.asp?pro_codigo=2762&tippro_codigo=22

36. The “Vitamins Cartel” was the first Brazilian case on international cartels. The investigations could not benefit from a lenience agreement or many of the current investigations tools, as they were not available to the BCPS at the time the case was opened. The investigations initiated in 2000 and were strongly based on the findings and condemnations in other jurisdictions. It was concluded and sent to CADE for judgment in 2005 and the decision was taken in 2007, almost 7 years after the decisions was rendered in US and EU.

37. The case can be considered as important in more than one aspect. In a theoretic perspective, because of the complexity of the economic evidence of its occurrence, as well as the difficulty in estimating the extent of its injuries. From the legal point of view, the trial of this cartel represented, for the Brazilian competition authorities, the adoption of an understanding whereby illegal anticompetitive practices provided for in the law are punishable even if no act has been proven to have been practiced in the homeland territory, once its effects may be felt in the Brazilian market.

38. After the establishment of the administrative process in May 2000, based on the publication of news about the US investigations, the case was thoroughly investigated in the Secretariat of Economic Law. In April 2007, CADE decided to convict the companies Roche, Aventis and Basf for harming competition and abusing their dominant position. The harm to competition occurred by price fixing, definition of quotas for production and commercialisation and induction to concerted conduct among economic agents. The total of fines imposed was: F.Hoffmannn – La Roche: R\$ 12.112.558,32, Basf A.G.: R\$ 4.726.362,37, and to Aventis Animal Nutrition: R\$ 847.125,19.

39. The conviction of the cartel abroad, both by the U.S. and European competition authorities, was fundamental to the Brazilian decision. The punishment of the cartel by these jurisdictions and the recognition that its scope was worldwide convinced CADE that the cartel, or at least its effects, was extended to Brazil. The Brazilian demand for vitamins has always been filled, almost entirely, by imports from those companies. Having this in regard, it was possible to support with reasonable certainty that the Brazilian market was strongly affected by the cartel, though the extent of damage is difficult to measure.

40. The same decision that convicted the companies’ European headquarters considered that there was no enough proof of the participation of the Brazilian subsidiaries, as well as of local managers who were initially included in the investigations.

41. The solution found by the Brazilian competition authorities had thus the merit of balancing the need of punishing a cartel practiced abroad with effects in Brazil and, at the same time, protecting the

principle of presumption of innocence of the individuals related to the firms proven guilty and convicted. From this trial on, it became clear that the proof of national subsidiaries' participation in international illegal practices is totally unnecessary for a foreign company to be punished for cartel in Brazil. It is sufficient that clear evidence of the acts performed abroad, but with actual or potential effects in Brazil, is brought to the analysis of national authorities.

Administrative Process N° 08012.002493/2005-16

Plaintiff: Confederation of Agriculture and Livestock of Brazil (CNA)

Defendants: Bertin Ltda; Brasboi - Bom Charque Indústria e Comércio Ltda; Frigoalta Pádua Diniz Alimentos LTDA; Independência Alimentos LTDA; Friboi LTDA; Frigorífico Boifran – ELDORADO; Frigorífico Mata Boi S/A; Indústria e Comércio de Carnes Minerva LTDA; Marfrig LTDA; and 13 managers.

Reporting Commissioner: Commissioner Ricardo Villas Bôas Cueva

Refer to:

http://www.cade.gov.br/ASPintranet/andamento_frame.asp?pro_codigo=7441&tippro_codigo=22

42. On March 16, 2005, the Confederation of Agriculture and Livestock of Brazil (CNA) sent a complaint to the Secretariat of Economic Law (SDE) regarding alleged practice of anticompetitive conducts in the market of purchase and slaughter of cattle by several meatpackers. According to CNA, the firms were (i) abusing their dominant market position in the purchase, processing and commercialisation markets, and (ii) adopting uniform commercial conduct with the purpose of defining the prices of cattle in the Brazilian internal market.

43. SDE began the procedures for preliminary investigations and after an initial inquiry, the administrative process was initiated on June 17, 2005, against 11 meatpackers and 13 individuals. In short, the SDE's opinion presented evidence that pointed to the possible existence of an agreement between the defendant firms, aiming to create a price classification table to be applied to producers in various regions of Brazil.

44. Three meatpackers had the case dismissed against them at that stage. In August, 2006, CADE began to analyse the complaints regarding the meatpackers Minerva, Mata Boi, Estrela d'Oeste, Marfrig, Bertin, Frigol, Franco Manufacturing and Friboi. Friboi, the world's largest company in the industry, and two individuals linked to the company, chose to sign a Cease and Desist Agreement (TCC), by which the investigations by CADE were suspended, the parties involved agreed to pay the monetary contribution of BRL13 million (USD 6,6 million) and to take several pro-competitive measures, such as the adoption of a compliance program.

45. After detailed analysis of the evidences collected by SDE, the case was judged on November. CADE decided for the dismissal of complaints against Marfrig, Estrela d'Oeste and Frigol. On the other hand, CADE convicted Bertin, Minerva, Franco Manufacturing Food and Mata Boi for cartel, and imposed fines to these firms. However, because of (i) the lower gravity of the violation in comparison with the other investigated and punished practices, which involved well organised and relatively long-lasting cartels, and (ii) the fact that the coordinated definition of a unified carcasses classification system could, apparently, be justified on grounds of efficiency, the penalties were eased.

46. The meatpackers Bertin, Minerva, Franco Manufacturing and Mataboi were imposed fines of 5% of their previous year gross revenue, with monetary adjustment to the effective date of conviction. Individuals were convicted to pay fines in the value of 10% of the firms' fines.

Administrative Process N° 08012.001826/2003-10

Plaintiff: Secretariat of Economic Law (*ex-officio*)

Defendants: Rota-Sul Empresa de Vigilância Ltda.; Vigilância Antares Ltda.; Vigilância Pedrozo Ltda.; Protege Serviços de Vigilância Ltda.; Vigilância Patrulhense S/C Ltda.; Vigitec; ASSEVIRGS-Associação das Empresas de Vigilância do Rio Grande do Sul; Delta Serviços de Vigilância Ltda.; Angra Log. de Segurança S/C Ltda; EBV-Empresa Brasileira de Vigilância; EPAVI-Empresa Portoalegrense de Vigilância Ltda.; J.M. Guimarães Empresa de Vigilância Ltda.; MD Serviços de Segurança Ltda.; Mobra Serviços de Vigilância Ltda; Protevale Vigilância e Segurança Ltda; Reação Segurança e Vigilância Ltda; Rudder Segurança Ltda; Segurança e Transporte de Valores Panambi Ltda; Seltec Vigilância Especializada Ltda; Sênior Segurança Ltda; Sindi-Vigilantes do Sul; Vigilância Asgarras S/C Ltda; Secure Sistemas de Segurança Ltda., and 29 individuals.

Reporting Commissioner: Commissioner Abraham Benzaquem Sicsú

Refer to:

http://www.cade.gov.br/ASPintranet/andamento_frame.asp?pro_codigo=7484&tippro_codigo=22

47. CADE concluded in September 19, 2007 that companies providing security guard services in the State of Rio Grande do Sul engaged in a hard core cartel to take part in public and private bid processes together with their trade associations. They were deemed to be infringing Brazilian antitrust law (art. 20, I and art. 21, I and II of Law n. 8.884/94).

48. This case is of greater importance because it was the first case judged based on a leniency agreement. CADE considered that it was duly performed, as stated by SDE, and upheld it, thus granting full immunity to the beneficiaries.

49. One of the members of the cartel signed in 2003 the first Leniency Agreement within the BCPS. The Council strongly relied on concrete evidence brought by the applicants for leniency as well as audio records of telephone conversations and documents collected in dawn raids.

50. As to the relevant markets adopted by CADE, they were not only bid processes of security guard services in the State of Rio Grande do Sul but also each of the biddings investigated. The market has been found to possess characteristics which foster concerted practices such as high entry barriers, low number of companies, homogeneity of the services and presence of trade associations.

51. Concerning the functioning of the cartel, CADE found that since 1990 the companies had engaged in concerted practices, dividing contracts among themselves and adopting predatory pricing to combat companies trying to break the cartel rules. Seized evidences showed that the parties held regular meetings at the association's headquarters (SINDESP), in restaurants and even at barbecue parties in order to organize the outcomes of bids for public tenders and the amount the recipient of the contract should quote. Moreover, the bid-rigging participants tried to manipulate the requirements that a company had to meet in order to qualify to participate in public tenders.

52. Besides, CADE considered that the trade associations and the security guards labour union collaborated in the practices by notifying labour irregularities of companies which were not part of the cartel to the Labour Government Officials.

53. Relying on the evidence, the Council considered that the parties' cooperation with each other in relation to price fixing and bid rigging had the purpose of preventing, restricting or distorting the competition process. As a result, sixteen companies and three associations were unanimously condemned. Moreover, eighteen companies' top managers and heads of the trade association and the labour union were also found guilty by the majority of the Council. Five companies and its managers were held innocent for insufficient proof.

54. CADE imposed a fine of 15% of companies' gross revenues for the year 2002 plus an increase of 5% for the leaders, which included the Trade Association. The managers were charged a fine of 15% to 20% of the respective companies' penalty.

55. The criteria used in fixing the amount were the gravity of the infraction, the degree of harm following art. 27 of Law 8.884/94 and case law, especially the crushed rock cartel condemned in 2005. In consequence, the amount of penalties rose up to BRL 40 millions (approximately USD 20 millions).

56. In addition to that, companies were prohibited to take part in bid processes and to engage in contracts with official financial institutions for the period of five years. The decision had to be published in a major newspaper at Rio Grande do Sul state, at the expenses of the convicted trade associations and labour union.

Abuse of Dominant Position

Administrative Process Nº 08012.006636/1997-43

Plaintiff: Association of Shopping Mall Storekeepers

Defendant: Condomínio Shopping Centre Iguatemi

Reporting Commissioner: Commissioner Luís Fernando Rigato Vasconcellos

Refer to:

http://www.cade.gov.br/ASPintranet/andamento_frame.asp?pro_codigo=2687&tippro_codigo=22

57. In 1997, the Association of Shopping Mall Storekeepers provoked CADE to state whether the radius clause (*cláusula de raio*) imposed by Shopping Iguatemi was an antitrust infraction. SDE, the investigative body, opened a formal investigation.

58. CADE defined the relevant market as high luxury regional shopping malls established in the west of São Paulo and parts of south and central areas of the city. Iguatemi's market share in this relevant market was between 29% and 31%.

59. The defendant alleged that the radius clause (*cláusula de raio*) was universally used in rental contracts between storekeepers and shopping malls and that it did not characterise any infraction to competition. CADE, however, considered that competition among shopping malls occurs through services, investments in advertising, pleasant environment, and an attractive *tenant mix*. According to CADE the radius clause (*cláusula de raio*), by restricting competition in the high luxury market, significantly increases the market power and the prices charged by Iguatemi. CADE didn't find the clause economically reasonable.

60. CADE's Board decided that the radius clause (*cláusula de raio*) was anticompetitive and imposed the following penalties: (i) Shopping Iguatemi had to pay a fine in the amount of 1% of its 2006

gross revenue; (ii) prohibition of including the radius clause in its rental contracts; (iii) Shopping Iguatemi also had to alter the previous contracts to exclude the radius clause (*cláusula de raio*); and (iv) publish CADE's decision in the major São Paulo daily newspaper for two days.

61. In 2005, Shopping Iguatemi had already been convicted for including in its rental agreements a non-competition clause listing the malls where the stores could not be opened.

Administrative Process N° 08700.003431/2001-31

Plaintiff: Listel – Listas Telefônicas S.A.

Defendant: Telemar Norte-Leste S.A e Telelistas (Região 1) Ltda.

Reporting Commissioner: Commissioner Luis Fernando Schuartz

Refer to: http://www.cade.gov.br/ASPIntranet/andamento_frame.asp?pro_codigo=2945&tippro_codigo=22

62. This administrative proceeding was initiated by the SDE on May 2, 2002, motivated by a complaint from “Listel” (telephone directory publisher firm) against “Telemar” (telephone service supplier) and “Telelistas” (telephone directory publisher firm), by virtue of alleged infringements to the Competition Law. The denounced practices consisted in an alleged favourable treatment to Telelistas by Telemar in the sale of advertising space in obligatory free telephone directories. The relevant market of the product was defined as the *sale of advertising space in telephone directories*. The geographic market was defined as comprising the cities, group of cities or states in which the telephone directory was published and distributed.

63. Listel and Telelistas presented very high market shares in all the relevant markets defined, leaving the other competitors with no more than 10% of it. It is also important to notice that Telelistas entered the market after winning a private procurement process by Telemar, while Listel is in the market for more than 20 years and was Telemar solely telephone directory publisher for a long period.

64. In this regard, the investigated conducts had a pro-competitive effect in the first moment, since they allowed the effective entry of a firm in a market characterized by entry barriers strongly associated to the previous reputation of the service supplier. On the other hand, due to the rapid growth of Telelistas' market share, the continuation of the practice could result in market dominance by Telelistas.

65. The private procurement process by Telemar was considered by CADE as an *ex ante* form of competition in which the winning bidder would receive all the competitive advantages associated to the contractual relationship between the telephone service supplier and the telephone directory publisher. These advantages, therefore, were not considered as resulting from anticompetitive strategies, or an exclusion of competitors initiative, but as intrinsic benefits of the *ex ante* competition, disposed in the Supply Agreement.

66. In this sense, CADE's Board concluded that there was not enough evidence that the alleged conducts were antitrust infringements and decided to dismiss the case. In addition to that, the Council also recommended SDE to investigate in a broader way the relationship between telephonic service suppliers and telephone directory publishers.

Administrative Process N° 08012.008659/1998-09

Plaintiff: Nortox S.A.

Defendant: Monsanto do Brasil Ltda.

Reporting Commissioner: Luis Fernando Rigato Vasconcellos

Refer to: http://www.cade.gov.br/ASPIntranet/andamento_frame.asp?pro_codigo=7480&tippro_codigo=22

67. On November 11, 1998, Nortox S.A denounced Monsanto do Brasil for (i) the alleged tying sale of genetically modified soy seeds and Monsanto's glyphosate-based herbicide and (ii) for impeding the other agricultural defensives suppliers' access to the referred seeds, supposedly aiming to exclude them from the market. Monsanto is the world's major herbicide producer and the leader in glyphosate herbicides sales. Nortox S.A is one of the Monsanto's current competitors in the agricultural defensives market and produces mainly the glyphosate herbicide.

68. Monsanto developed a genetically modified type of soy that could resist the direct action of glifosato. Nortox accused Monsanto of tying the sale of its glyphosate herbicide and its new transgenic soy seed. The alleged strategy of Monsanto was through its advertising material according to which the transgenic soy could only tolerate Monsanto's glyphosate-based herbicide. Yet, Nortox complained that Monsanto didn't make the seeds available for other competitors' tests.

69. The opinions of the investigative bodies were unanimous for the filing of the administrative process. According to their opinions, Monsanto could not make the seeds available for tests before receiving the proper authorisation to commercialise them (only in 2005 the transgenic seeds received the authorisation), besides the fact that the seeds were available for free acquisition in the international market; the promotional material did not constitute enough proof of tying sales; and there was not enough proof of abuse of dominance.

70. In this regard, CADE's Board decided that the practice of tying sales was not proved and that the refusal to supply the transgenic seeds was in accordance with the legitimate interest of Monsanto, since the seeds did not have the authorisation to be commercialised. Since the alleged conducts were not considered antitrust infractions, the process was filed.

Administrative Process N° 08012.008678/2007-98

Plaintiff: SDE (*ex-officio*)

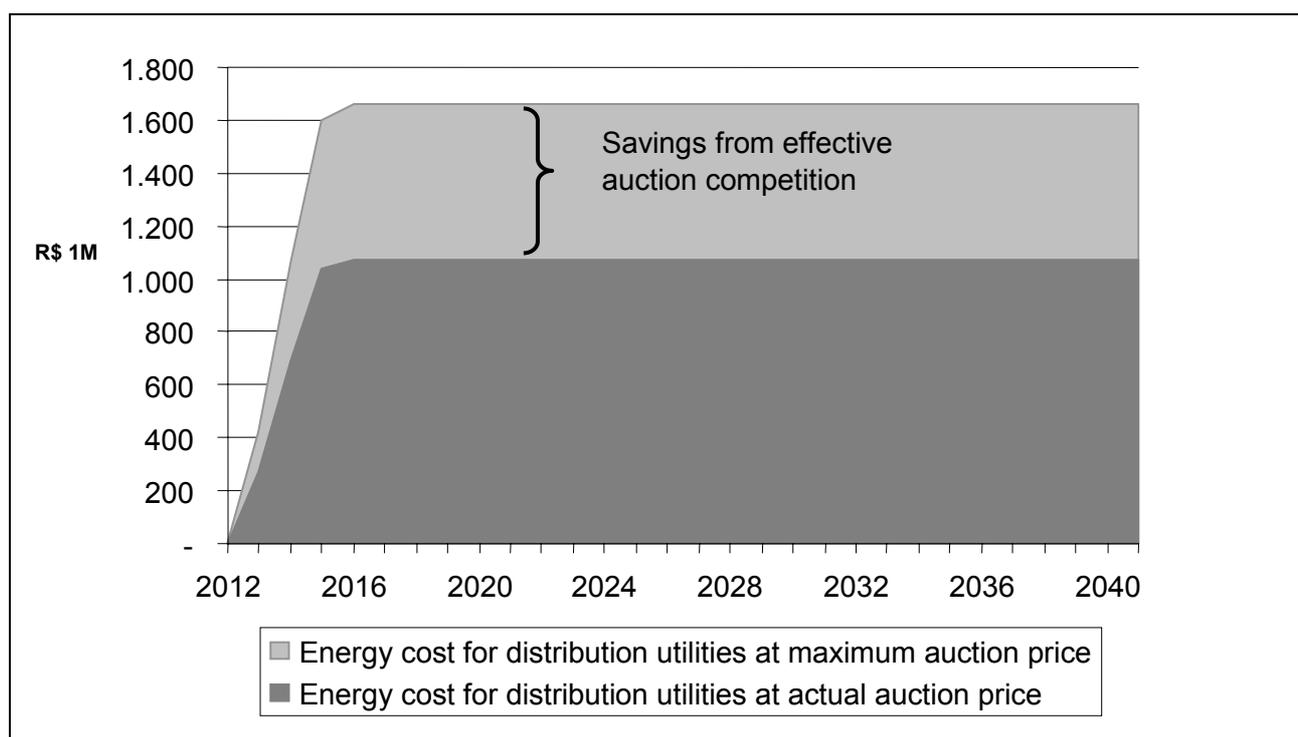
Defendant: Construtora Norberto Odebrecht S/A

Reporting Commissioner: Luis Fernando Rigato Vasconcellos

Refer to: http://www.cade.gov.br/ASPIntranet/andamento_frame.asp?pro_codigo=8352&tippro_codigo=22

71. As briefly explained above, Odebrecht, a construction company, entered into exclusivity agreements with suppliers of hydroelectric turbines GE, Alstom, VA Tech and Voith Siemens, which prohibited them to negotiate with other groups interested in participating in the Rio Madeira energy auction, a project worth BRL 20 billion. After a careful investigation, in which all interested parties were heard, SDE's adopted an interim measure which suspended the effectiveness of those contracts. Such measure was challenged in the Judiciary and, before a final sentence from the courts was delivered, Odebrecht negotiated a settlement with CADE, by which it withdrew the judicial claims and accepted the cancellation of the exclusivity clause in its contracts with the turbines suppliers. The auction was ultimately won by Odebrecht, but, due to the competition with other companies which could then present viable proposals by negotiating with GE, Alstom, VA Tech and Voith Siemens, the final price for the energy – BRL 78,87 - was significantly lower than the reserve price – BRL 122,00. The total savings for the Brazilian electricity consumer for the entire 30 years of the concession agreement are estimated in BRL 16.4 billion (approximately USD 9.4 billion).

Graphic 8



Graphic n.8: Savings in the Rio Madeira Auction after intervention of the BCPS

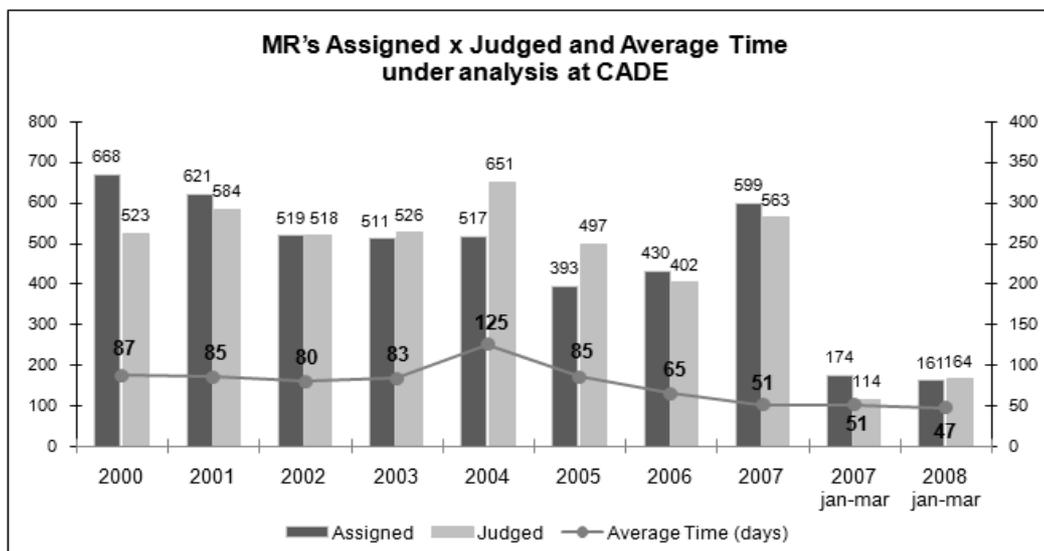
Source: Secretariat of Economic Law – SDE

2.2 Mergers and acquisitions

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

72. During 2007, CADE distributed 599 merger review processes, while 563 were actually judged. Within this number, 12 cases were withdrawn, CADE considered 24 mergers not admissible for review, and 527 mergers were considered admissible and thus judged regarding the merit. The average time for merger review was 51 days.

Graphic 9

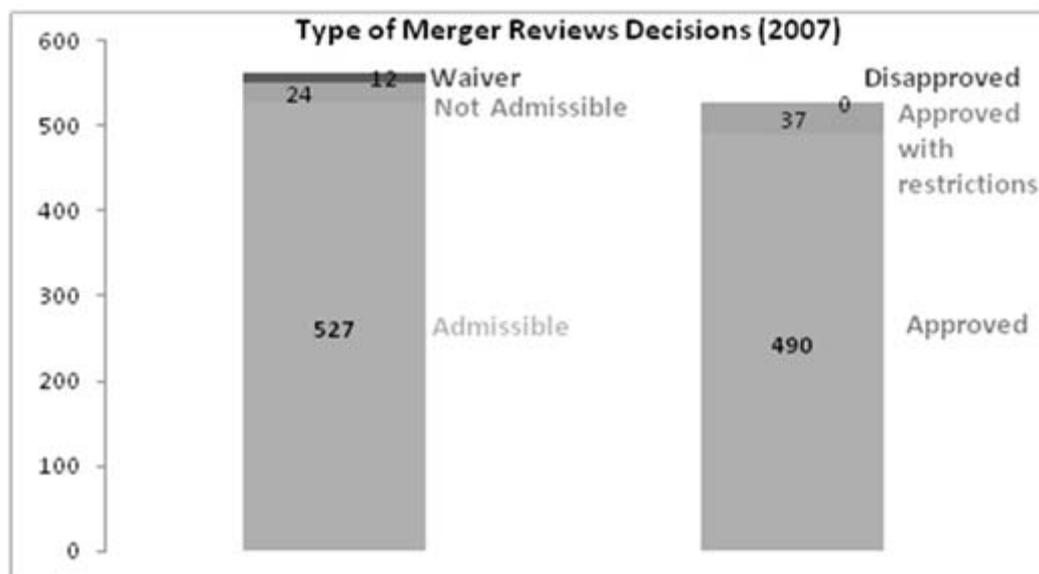


Graphic n.09: in 2007 CADE distributed 599 merger review processes, while actually judged 563. The average time for merger reviews was 51 days

Source: http://www.cade.gov.br/english/apresentacao/graficos/mergers_reviews.asp

73. Of the 527 mergers considered by the Board regarding their merit, 490 were cleared and 37 approved with restrictions. No merger was blocked in 2007.

Graphic 10

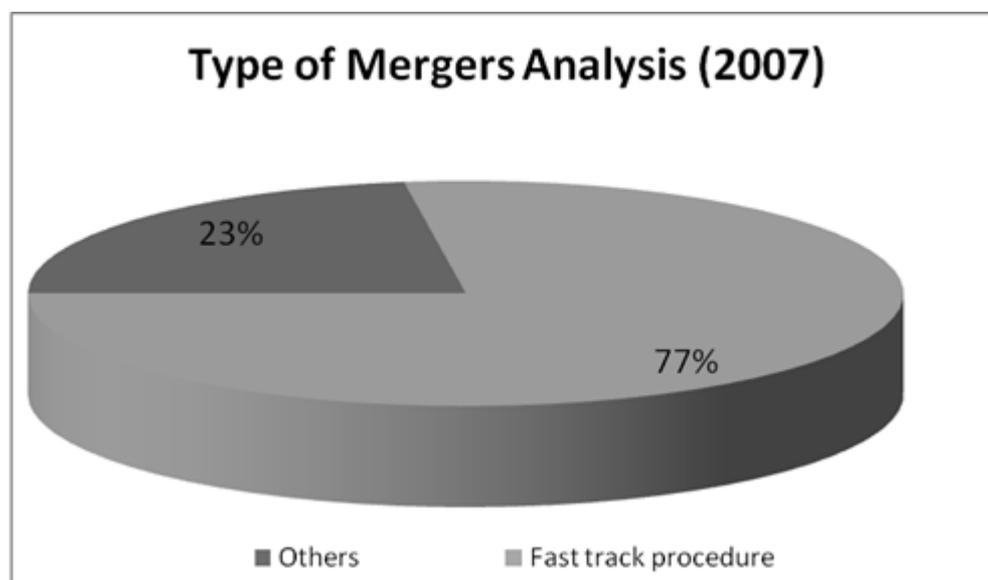


Graphic n.10: In 2007, 527 mergers were analysed by CADE, 490 of which were directly approved, and 37 of which were approved with remedies.

Source: http://www.cade.gov.br/english/apresentacao/graficos/mergers_reviews.asp

74. Since 2003, SDE and SEAE formally adopted the fast track procedure to speed up merger review analysis. Afterwards, CADE adopted the same procedure and nowadays more than 75% of merger reviews analysed by CADE are under this instrument.

Graphic 11



Graphic n. 12: Types of Merger Review Decisions: 77% of CADE's judgments in merger reviews were done under the fast track procedure.

Source: http://www.cade.gov.br/english/apresentacao/graficos/mergers_reviews.asp

1. In 2007, BRL 2.665.784,80 (approx. USD 1.367.069,12) were collected on fines for untimely merger notification.

2.2.2 Summary of significant cases

75. Merger Review N° 08012.010195/2004-19 and 08012.010192/2004-77

Parties: Ripasa S/A Celulose e Papel e Suzano Bahia Sul Papel e Celulose S/A.

Reporting Commissioner: Commissioner Luis Fernando Schuartz

Refer to:

http://www.cade.gov.br/ASPIntranet/andamento_frame.asp?pro_codigo=2449&tippro_codigo=4 and

http://www.cade.gov.br/ASPIntranet/andamento_frame.asp?pro_codigo=2447&tippro_codigo=4

76. On August 8, 2007, CADE approved with remedies the purchase of Ripasa S/A Celulose e Papel (Ripasa) by Suzano Bahia Sul Papel e Celulose S/A (Suzano) and Votorantim Celulose e Papel (VCP), both companies active in the cellulose and paper production sectors, two important competitors in the Brazilian paper market. After the merger, Suzano and VCP held, each one, 50% of the shares of target company. Ripasa's commercial registration was cancelled and it became a production unit jointly owned by both companies, which remained autonomous in their respective commercial strategies.

77. The merger affected different product markets in the paper industry, resulting in significant market concentration, with the elimination of a player in the market and increase in market share by the first and second players. After a detailed analysis, CADE considered that, regarding the market for some types of paper, the operation could affect significantly the relevant markets, since it was not possible to

conclude that rivalry among the remaining players could be an effective inhibitor for the exercise of market power.

78. In this sense, CADE decided to approve the operation, imposing though behavioural remedies meant to prevent the creation of market power. Among the imposed remedies, it was determined that: (i) the companies shall grant access, to the BCPS, to documents and information exchanged between the parties, ensuring unrestricted access to all documents and information exchanged by them due to the joint management of Ripasa, which included physical access to the plant units, so that inspections can be made at any time by representatives appointed by CADE, the head of SDE or SEAE; (ii) the parties should refrain from imposing exclusivity agreements to cut size paper distributors, as well as to provide the necessary means to ensure the acknowledgement by the distributors of CADE's decision; (iii) sell the trade mark "Ripax"; and (iv) provide detailed specification of the expected quantitative targets of the annual production and the programmed division of production between the applicants.

79. Finally, CADE decided to issue a recommendation to the Chamber of External Commerce of Ministry of Development, Industry and Trade (CAMEX), and to the Ministry of Foreign Affairs with the recommendation to reduce import tariffs on "cut size paper".

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

80. Brazilian competition authorities play an important role on issues that come out as a consequence of the interface between the application of Brazilian Antitrust Law to all economy sectors and the enforcement of rules issued by the regulatory agencies (sectoral regulators), as well as the measures related to trade and industrial policies.

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

82. In 2007, SEAE had an intensive participation in this field, as following:

- 1) **Highway Sector:** Second Round of Federal Highway Concession Program, aiming to insert competition principles into the bidding process. In the Interstate Road Passenger Transport sector, SEAE particularly took part in the discussions of the proposed methodology for the tariff's adjustment (National Agency for Surface Transport – ANTT's public hearing);
- 2) **Railway Sector:** SEAE issued opinions in two ANTT's – the federal terrestrial transport regulatory agency – public hearings, concerning accessory revenues and authorisation for new investments in concessions areas.
- 3) **Aviation Sector:** a) participation in the technical commission of the National Council of Civil Aviation (CONAC), especially in elaboration of international civil aviation policy; b) during the activities of Parliamentary Investigation Commission (CPI) of Air Traffic Crisis, SEAE gave several suggestions in order to improve the sector regulation; c) participation in the Brazilian Company for Airport and Aviation Infrastructure – INFRAERO's initial public offering discussions.
- 4) **Port Sector:** SEAE took part in the definition process of Dredging Law, which established the called "dredging for results" and the international bidding for dredging services contracts.
- 5) **Energy Sector:** SEAE made suggestions on the creation of a natural gas regulatory framework, now before the National Congress, whose main aspects are:

- (i) Awarding of the right to provide gas transportation services should be done on a concession basis (in detriment to the authorisation system), preceded by a tender process, since this would not only stimulate competition, but is also considered a less precarious instrument;
- (ii) Initially foreseen for gas pipelines, free access should be expanded to include storage facilities and Liquefied Natural Gas (LNG) liquefaction and re-gasification terminals in order to avoid discrimination of vertically integrated companies;
- (iii) Existence of an obligation for integrated companies that participate in the natural gas sector to maintain separate accounting and operations, making it possible to investigate anti-competitive practices more effectively.

5.1. Furthermore, SEAE took a position at the public hearing held by the National Petroleum, Natural Gas and Biofuel Agency – ANP, with the purpose of defining rules for the Ninth Round of Tenders for Petroleum and Natural Gas Exploratory Areas. On that occasion, SEAE suggested that the value of the supply guarantees that each participant had to deposit with the ANP⁸ should be increased. The objective was to increase the penalties for those agents that fail to work the blocks for which they submitted winning bids and, in this way, mitigate the risk of companies with market power bidding on blocks that have no interest in working, but only make it difficult for smaller scale companies to participate.

- 6) **Health and Sanitary Surveillance Sectors:** participation on several meetings of the Health Insurance Chamber (Câmara de Saúde Suplementar – CSS) and meetings of the Pharmaceuticals Regulatory Chamber (Câmara de Regulação do Mercado de Medicamentos – CMED), always concerned with regulatory improvements, in order to increase competition on both markets. SEAE also has issued some technical reports in which was expressed its competition advocacy approach throughout different fields of concern, such as: a) regulatory and bureaucratic barriers for the pharmaceutical industry; b) institutional arrangements for the pharmaceutical market; c) inflationary impact of pricing liberalisation of pharmaceuticals; and d) “portability” in private health insurance plans.

6.1. Regarding the bills that are under discussion in the Congress, SEAE issued reports analysing 10 (ten) different legislative proposals related to the health sector (with a competition advocacy approach), expressing its concern with the appropriate regulatory incentives for the private sector in both pharmaceuticals and health insurance markets. Moreover, SEAE issued non binding opinions, most of them during the public consultation phase, for the following sectoral regulations:

- (i) National Agency for Sanitary Surveillance – ANVISA’s public consultation (CP nº 69/2007) for a regulation that would restrict non-pharmaceuticals commerce in pharmacies and drugstores, in which SEAE has pointed out the negative impact on competition of such regulation;
- (ii) National Agency for Sanitary Surveillance – ANVISA’s public consultation (CP nº 82/2007) for a regulation that would reduce bureaucratic procedures in pharmaceutical research approval, in which SEAE has highlighted the importance of these actions in order to attract foreign investments from the pharmaceutical industry and has encouraged other initiatives that could increase the Brazilian competitiveness in innovative markets.

83. In the scope of trade and industrial policies, BCPS’ role of assuring coherency between trade policy instruments and competition policy principles is played by SEAE’s participation in: a)

⁸ And that they are executed in cases in which the winning party decides not to work the block in question.

MERCOSUR's forums of analysis of tariff changes; b) technical discussion forums that support the Chamber of Foreign Trade (Câmara de Comércio Exterior – CAMEX)'s decisions on the application of antidumping measures.

84. SEAE also has a role in monitoring technical standards of products issued by Brazilian Association of Technical Standards – ABNT, in order to prevent harm to competition and/or consumers due to introduction of technical barriers or unfair patterns of competition. In this regard, in 2007 SEAE issued a report agreeing with the proposal for withdrawal of Technical Standard – NBR ABNT 6327:2004 – *Steel Wire Ropes for General Purposes*, which was submitted to public consultation. SEAE's recommendation was based upon the following arguments: a) sector's high degree of concentration; b) product is a relevant input for industry in general; c) evidence of technical construction concepts in disagreement with ISO standardisation.

85. As possible and practicable, CADE always tries to issue opinions regarding new regulations or the ones being considered by the Brazilian Regulatory agencies. However, due to CADE's adjudicative status, there is a difficulty in issuing those opinions, because they can be regarded as pre-judgments. In 2007, there was not a specific contribution for the formulation or implementation of policies other than competition policy. Nevertheless, in some situations CADE emitted recommendations about import tariffs to the Chamber of Foreign Trade (Câmara de Comércio Exterior – CAMEX).

4. Resources of competition authorities

4.1 Resources overall

4.1.1 Annual Budget (in Reais and USD)

	Council for Economic Defense CADE	Secretariat for Economic Monitoring - SEAE	Secretariat of Economic Law SDE
Brazilian Real (BRL)	BRL 10,413,812.87	BRL 5,074,000.00	BRL3,127,523.00
U.S Dollars (USD)	USD 5,340,416.85	USD 2,602,051.28	USD1,603,857.95

4.1.2 Number of Employees

	Council for Economic Defense- CADE	Secretariat for Economic Monitoring- SEAE	Secretariat of Economic Law- SDE
Economists	11	37	05
Lawyers	32	08	20
Other Professionals	05	30	05
Total Technical Staff (working on Competition Enforcement)	48	75	30
Support Staff	118	77	35
All staff combined	166	152	65

4.2 *Human Resources*

	Council for Economic Defense CADE	Secretariat for Economic Monitoring - SEAE	Secretariat of Economic Law SDE
Enforcement against anticompetitive practices	CADE does not assign a separate staff for enforcement activities	09	26
Merger review and enforcement	CADE does not assign a separate staff for merger analysis and enforcement	21	11
Advocacy Efforts	CADE does not assign a separate staff for advocacy efforts	128	SDE does not assign a separate staff for advocacy efforts

4.3 *Period Covered by the above information: January 1st, 2007 – December 31st, 2007*5. **Summaries of or references to new reports and studies on competition policy issues**

86. In 2007, the SDE did not issue any report on competition policy.

87. CADE continued to publish, jointly with IOB – *Informações Objetivas Publicações Jurídicas Ltda.* (a Thompsom Corporation), the Competition Law Journal (*Revista de Direito da Concorrência*). The journal is a technical publication directed to professionals involved in the antitrust practice as well as an academic audience. In 2007, only one number of the Competition Law Journal was published.

Table 4: Articles published at “Revista de Direito da Concorrência”, CADE-IOB

Period	Subject	Author
January to March, 2007	<i>Abuse of dominance enforcement under Latin American competition laws</i>	<i>Maria Coppola Tineo and Russell Pittman</i>
	<i>Prova econômica de cartéis: reflexões a partir da jurisprudência</i>	<i>Denis Alves Guimarães</i>
	<i>Duração do processo de decisão, incerteza e risco na prática antitruste: a autoridade da concorrência joga dados?</i>	<i>Rubens Nunes</i>

88. In relation to its participation in the OCDE’s roundtables in 2007, the BCPS produced the following seven written contributions:

- Roundtable on facilitating practices in oligopolies (DAF/COMP/WD(2007)114).
- Roundtable on vertical mergers (DAF/COMP/WD(2007)49)

- Roundtable on dynamic efficiencies in merger analysis (DAF/COMP/WD(2007)83).
- Hard Core Cartels: Cooperation with Public Prosecutors in Criminal Cartel Investigations (DAF/COMP/WP3/WD(2007)3)
- Roundtable on Competition Restrictions in Legal Professions (DAF/COMP/WP2/WD(2007)42)
- Public Procurement: the role of competition authorities in promoting competition (DAF/COMP/WP3/WD(2007)18)
- Roundtable on Managing Complex Merger Cases: how agencies deal with Complex Data Analysis, Surveys, and Market Studies and obtain the necessary expertise for Complex Substantive Issues. (DAF/COMP/WP3/WD(2007)75)

89. Additionally, the BCPS sent to the OECD Competition Committee meetings a public prosecutor that present a written contribution and actively took part in the program for public prosecutors.

90. Annually, all the three bodies publish Annual Reports.

Articles Published by CADE's Commissioners in 2007

AZEVEDO, P. F. Os conceitos de mercado relevante, posição dominante e eficiências econômicas na tutela da concorrência. Revista do IBRAC. , v.14, p.116 - 123, 2007;

Bruno de Oliveira Maggi; FARINA, E. M. M. Q. . Cartel das Vitaminas S/A: um artigo resenha. Revista de Direito da Concorrência, v. 13, p. 75-105, 2007;

CUEVA, Ricardo Villas Bôas, "Termo de compromisso no processo administrativo sancionador do Banco Central: possibilidade e limites", in MEDINA OSÓRIO, Fábio (coordenador), Direito Sancionador: Sistema Financeiro Nacional, Belo Horizonte, Fórum, 2007. Páginas 281-309. ISBN 978-85-7700-063-0;

PRADO, L. C. D.; Amorelli, Marcelo ; Brito, T.A. de . Mercado Convergente de Serviços de Telecomunicações e Serviços de Valor Adicionado: Problemas Jurídicos e Econômicos. Revista de Direito de Informática e Telecomunicações - RDIT, v. 2, p. 151-176, 2007;

PRADO, L. C. D.. Negociações Comerciais e Relações Econômicas Interacionais: O Impasse da Rodada de Doha. Revista de Conjuntura, v. VII, p. 6-13, 2007;

SILVA, Vivian Lara dos Santos, AZEVEDO, P. F. Formas Plurais no Franchising de Alimentos: evidências de estudos de caso na França e no Brasil. RAC. Revista de Administração Contemporânea. , v.11, p.129 - 152, 2007;

SILVA, Vivian Lara dos Santos, AZEVEDO, P. F. Interfirm Arrangements in Different Institutional Environments: McDonald's France and Brazil Case Study. Journal of Marketing Channels. , v.14, p.103 - 125, 2007.

Books Released by CADE's Commissioners in 2007

AZEVEDO, P. F., DIAZ, M. D. M., GREMAUD, A.P., TONETO JÚNIOR, R. Introdução à Economia. São Paulo: Editora Atlas, 2007, v.1. p.405; and

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