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Competition - Portugal

Regulator Fines Portugal Telecom and ZON for Abuse on Broadband Markets

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November 12 2009

Following an investigation which began in late 2003, prompted by complaints from several operators, the Competition Authority recently concluded that between 2002 and 2003 various companies in the Portugal Telecom and ZON groups abused their dominant position in the national broadband access markets.

At the time of the alleged abuses, all of the undertakings were part of the Portugal Telecom group, which was the sole supplier of wholesale broadband access. Portugal Telecom also held a dominant position in the retail broadband market, as evidenced by its market shares of 70.7% in 2002 and 77.7% in 2003.⁽¹⁾

The authority found that the defendant companies implemented different types of abusive practice under Articles 4(1)(a), (c) and (e) of the Competition Act. Each of the practices related to the coordination - between May 22 2002 and June 30 2003 - of the wholesale pricing system for Portugal Telecom's Rede ADSL bitstream offer with the prices offered for certain retail broadband access schemes, specifically the SAPO and Netcabo tariff plans.

On the basis of their coordination of wholesale and retail prices, the Portugal Telecom and ZON group companies allegedly:

- imposed a margin squeeze by setting wholesale and retail broadband access prices in an artificial and unfair manner, so as to prevent an equally efficient operator from making a profit;
- introduced a discriminatory discount scheme in the Rede ADSL wholesale offer to the detriment of competing operators; and
- limited production, distribution, technical development and investment in broadband access services in Portugal.

The authority was concerned that these practices led to a reduction in the competing operators' share of new subscribers from 36% to 19%, whereas the number of Portugal Telecom's new broadband access customers grew by 193% over the same period.

The undertakings involved were fined €53 million in total - €45 million for the companies in the Portugal Telecom group and €8 million for the ZON group subsidiaries.

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Endnotes

(1) See the authority's Press Statement 16/2009, dated September 2 2009.

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