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REVIEW

Portugal strikes deal with coffee companies

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Portugal's Competition Authority has reached an agreement with four coffee distributors accused of anti-competitive practices.

The companies are the four largest coffee distributors in Portugal: Nestlé; Delta Cafés; Nutricafés - Cafés e Restauração; and Segafredo Zanetti, Comercialização e Distribuição de Cafés. Together they hold around 80 per cent market share for coffee distribution.

The agreement, announced on 16 July, centres on long-term exclusive purchasing clauses in the companies' distribution contracts, which the authority deems anti-competitive. The authority said it would close the case against the companies without issuing any fines, on the condition that all four companies agreed to amend the clauses to limit the exclusivity agreements to five years.

The case was launched in 2005. The authority subsequently fined Nestlé €1 million for including anti-competitive clauses in its distribution agreements. But the decision was quashed in 2007 by the Commerce Court in Lisbon, which ruled the authority had violated the company's rights of defence.

Nuno Ruiz, a partner at Vieira de Almeida & Associados, says the authority's decision was criticised at the time, because "it should have looked at all four companies adopting similar practices, and not just Nestlé".

Pedro Gouveia Melo, of Moraes Leitão Galvão Teles Soares da Silva in Lisbon says this outcome probably meant the authority was "more reluctant" to formally pursue Nestlé again. He adds that these kinds of agreements are an efficient way for the authority to deal with cases. "It saves on the authority's resources, saves the companies money and still ensures that the companies comply with the country's competition regulations," he says.

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