



## Na Mídia

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### **CADE's deadlines, reviews unchanged by coronavirus pandemic**

Camila Pavanelli de Lorenzi

Brazil's competition authority CADE does not plan to extend deadlines for the payment of fines or allow flexible procedural deadlines as a result of the coronavirus pandemic, the agency's communications department told this news service.

CADE has been operating and reviewing cases as usual, and it does not expect to suspend procedural deadlines or cancel hearings, the agency said in an email.

In response to a question from this news service, CADE said it has no plans to fast-track merger reviews with a direct relation to the current health crisis, such as a deal involving medical device manufacturers.

On 12 March, CADE adopted several measures for the following 30 days, such as allowing staff to work from home.

Face-to-face meetings and domestic travel have been restricted to "strictly necessary" matters and online conference calls, while not recommended by CADE's Ethics Committee, are now authorized. All foreign travel has been suspended.

The participation of CADE staff in training sessions, seminars and events has also been suspended.

In contrast, other agencies and courts in Brazil have suspended all hearings and deadlines. The Federal Appeals Court has reportedly suspended hearings and a federal court ordered the suspension of hearings by the Administrative Council of Tax Appeals.

Meanwhile, three antitrust lawyers told this news service that CADE should consider deferring the payment of fines for some companies on a case-by-case basis.

**"Some banks are discussing offering debt deferments; this is something CADE should consider," said Bruno Drago, a lawyer at Demarest.**

“We believe that CADE will be sympathetic to this argument,” said Marcio Bueno, a lawyer at Caminati Bueno.

When it comes to procedural deadlines, “conduct cases ... should be assessed [on] whether the situation could prevent the production of evidence or hamper the obtainment of information,” said Lauro Celidônio, a lawyer at Mattos Filho.

If, for example, lawyers are unable to meet with CADE commissioners prior to the trial of a conduct case, CADE should consider postponing the trial, Celidônio said.

As reported, the US Federal Trade Commission said it would adjust investigations to give respondents sufficient time to submit all information requested by the agency as companies react to the COVID-19 pandemic.

In addition, Celidônio and Bueno both argued that the “provisional authorization” mechanism, a legal instrument for expedited merger approvals that is provided for under CADE’s bylaws, could be adopted for mergers involving a company on the brink of bankruptcy.

As reported, CADE opened a so-called preparatory proceeding today (18 March) to investigate price gouging involving medical and pharmaceutical products, given the high demand for certain products as a result of the COVID-19 crisis.

by Camila Pavanelli de Lorenzi in São Paulo

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