

## Na Mídia

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### CADE imposes interim measures on media company

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Brazil's competition authority has launched an abuse of dominance probe and imposed interim measures on a media company for allegedly including loyalty and rebate provisions in its contracts with advertising agencies.

The Administrative Council for Economic Defence (CADE) said on Wednesday that it has opened a **probe** into Grupo Globo's suspected anticompetitive advertising contracts, after initiating an ex-officio preliminary investigation in February.

Globo is a mass media and publishing group headquartered in Rio de Janeiro and offers various services including cable television, radio, internet and news media content.

CADE suspects that Globo includes minimum purchase volumes, loyalty bonuses and discounted advanced payment programmes in its contracts with advertisers for ad services. The exact details of the contracts and incentives have not been made public.

In addition to its investigation, CADE ordered Globo not to enter into new agreements with ad agencies during the course of its probe that include any of the suspected incentive plans. Globo is also banned from receiving any new payments from previously agreed contracts.

Globo will be fined roughly €3,184 for each day it doesn't comply with the measure. Grupo Globo could not be reached for comment.

CADE said that the broadcaster's incentives to ad agencies could amount to an abuse of dominance in the local broadcasting market. These contracts could act as a type of fidelity programme because they award ad agencies based on investment amounts, the enforcer explained. It added that this could potentially foreclose other ad agencies from the market.

A CADE spokesperson told *GCR* that the authority's investigative arm came to the conclusion that there is evidence that Globo has violated the antitrust law and the interim measure was adopted to prevent any anticompetitive effects from the suspected conduct.

The authority's investigative arm will now complete its full investigation and issue a recommendation to CADE's tribunal.

Globo is also the target of a separate CADE investigation launched in September, looking into whether the media company has an unlawful monopoly in the local market for football broadcasting rights. The authority has until March 2021 to conclude that probe.

**Bruno Drago, a partner at Demarest Advogados in São Paulo, said that CADE has not adopted interim measures very often in the past but it appears to be using the tool more frequently.**

**There are always risks involved for the authority when adopting interim measures, including appeals that may suspend the effects of the measure, Drago said.**

In February, CADE **imposed** interim measures on gym unions in Rio de Janeiro over an anticompetitive clause in their agreements with union members. CADE also issued interim measures against credit card-processing company Redecard last October, which forced it to stop **offering** shortened repayment options exclusively to merchants that bank with Itaú Unibanco.

TozziniFreire Advogados partner Guilherme Ribas in São Paulo said that the Organisation for Economic Co-operation and Development and the local antitrust community have urged the competition authority to open more unilateral conduct cases. This investigation could be in response to those calls, he said.