



CADE OVERVIEW 2024

DEMAREST

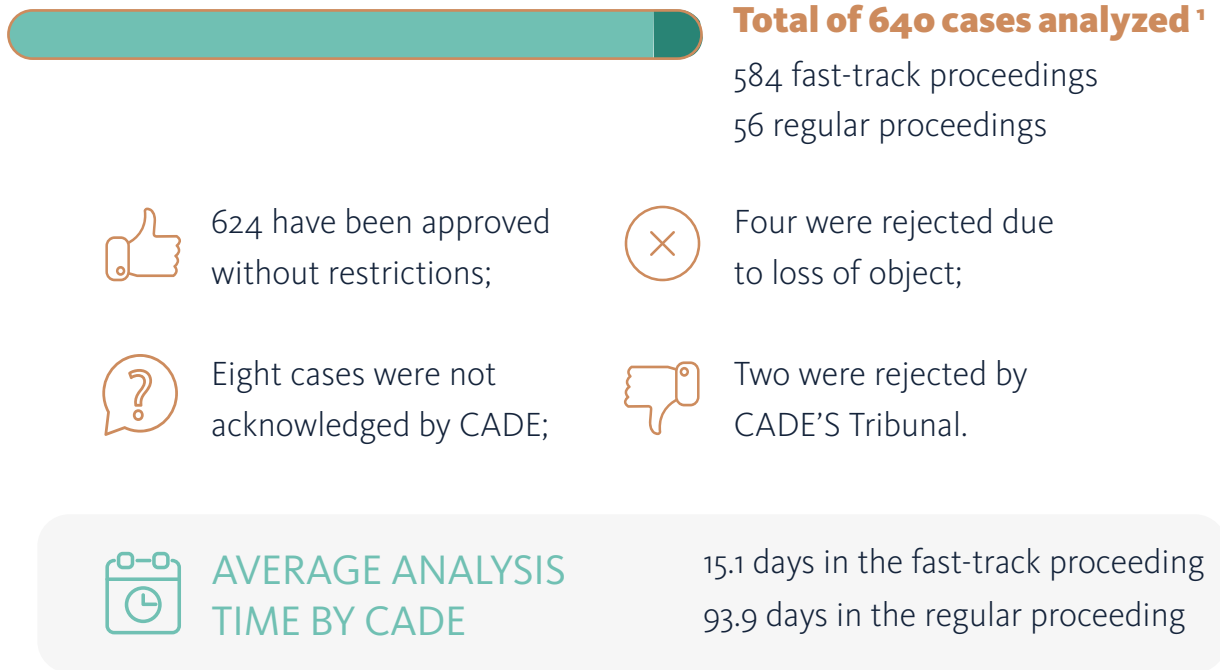


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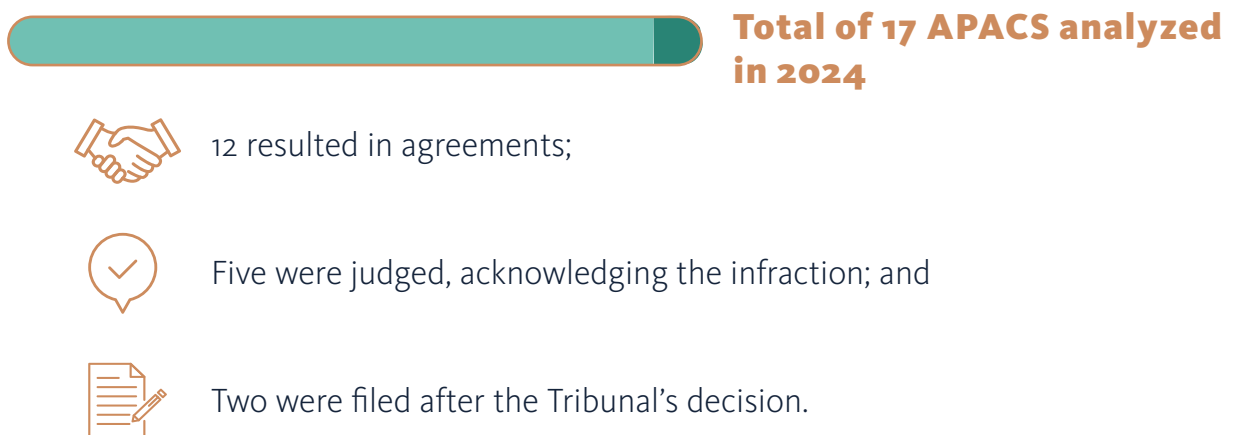
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1. CADE NUMBERS IN 2024

1.1. MERGER CASES



1.2. ADMINISTRATIVE PROCEEDING FOR INVESTIGATING MERGERS (APAC)



¹ Available at : <https://CADENumeros.CADE.gov.br/QvAJAXZfc/opendoc.htm?document=Painel%2FCADE%20em%20N%C3%BAmoros.qvw&host=QVS%40srvo04q6774&anonymous=true>. Last Access: January 28, 2025.

CADE NUMBERS IN 2024

1.3. ADMINISTRATIVE PROCEEDINGS



Total of 21 proceedings judged in 2024²



17 involved the cartel practices, 8 were partially convicted and 4 were closed;



Four investigations into uniform commercial conduct, one of which was closed;



Two investigations of unilateral conduct, one of which was closed;

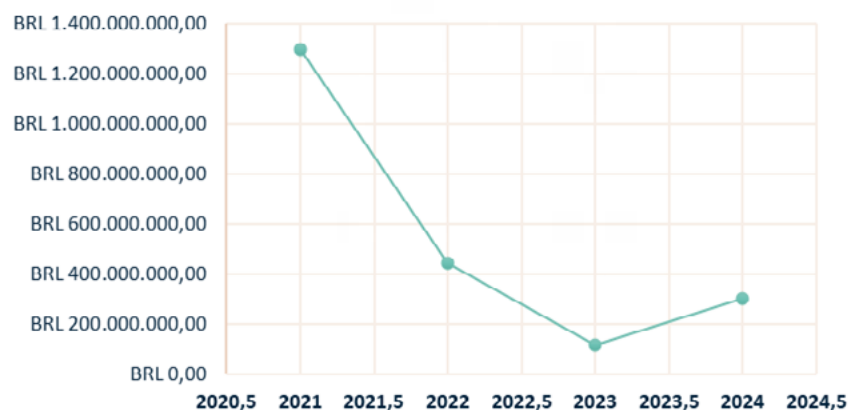


One investigation into the influence of uniform commercial conduct, which was also closed.

TOTAL FINES APPLIED

BRL 302,778,044.49

Total fines applied in administrative proceedings by CADE



² Available at : <https://CADEnumeros.CADE.gov.br/QvAJAXZfc/opendoc.htm?document=Painel%2FCADE%20em%20N%C3%BAmoros.qvw&host=QVS%40srvo04q6774&anonymous=true>. Last Access: January 28, 2025.

1.4. NEW INVESTIGATIONS INITIATED BY CADE



73 investigations initiated,
including public and confidential proceedings³



31 preliminary
investigations;



22 administrative
inquiries;



20 administrative
proceedings.



CADE informed the launching of 24 cartel investigations, 39 unilateral conduct investigations and 10 uniform conduct investigations in 2024.

1.5. SETTLEMENT AGREEMENT (TCC)

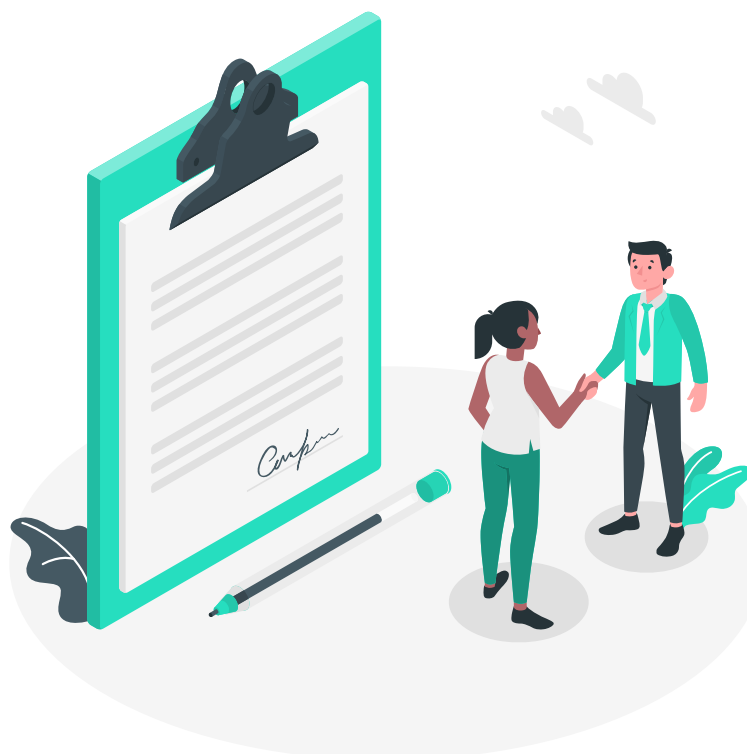


Five approved TCCs and one
rejected in 2024;



**Total collected in cash
contributions:**

BRL 3,026,255.04.



³ Available at : <https://CADenumeros.CADE.gov.br/QvAJAXZfc/opendoc.htm?document=Painel%2FCADE%20em%20N%C3%BAmeros.qvw&host=QVS%40srvo04q6774&anonymous=true>. Last Access: January 28, 2025.

2. KEY TOPICS

Note: This document was drafted to address significant discussions that took place mostly throughout the second half of 2024. For other topics analyzed in the first half of 2024, please access our [partial review published in August 2024](#).

2.1. NEW INVESTIGATIONS INTO HR DEPARTMENTS CONDUCT: HAS BENCHMARKING BEEN PUT IN CHECK?



After nearly four years since the first investigation into the conduct of human resources departments, the topic returned to CADE'S agenda in 2024 with the start of two new investigations focused on the labor and employment market.

The first investigation, which is still pending judgment, was initiated in October 2020 and focuses on the conduct of “MedTech”, a benchmarking group formed by healthcare companies. MedTech members – members of HR departments, among other practices – allegedly engaged in systematic exchanges of competitively sensitive information on remuneration, salary increases, and benefits offered to current and future employees.

NEW INVESTIGATIONS INTO HR DEPARTMENTS CONDUCT: HAS BENCHMARKING BEEN PUT IN CHECK?

In August 2024, the HR topic returned to CADE in double: CADE’S General Superintendence (“SG”) simultaneously started two administrative inquiries that were swiftly converted into administrative proceedings in October 2024. As in the previously mentioned healthcare case, these two most recent proceedings investigate conduct that allegedly impacted the Brazilian labor market.

One of the proceedings investigates the conduct of the Consumer Companies Group (in Portuguese, “*Grupo de Empresa de Consumo*” or GECON⁴) and the other investigates the Salaries Executive Group (“*Grupo Executivo de Salários*” or GES) and the Executive Group of Benefits Administrators (“*Grupo Executivo de Administradores de Benefícios*” or GEAB⁵).

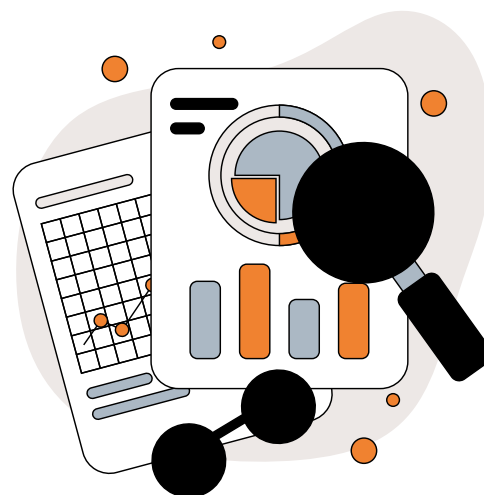
The proceeding is still in its initial phase (pending notice to all investigated parties), and the SG already addressed significant matters in their decision to initiate the investigation. The SG argued that the frequent sharing of recent or future information, particularly in concentrated markets, characterizes an exchange of competitively sensitive information. Regarding the burden of proof, SG considered, given the circumstances, that it would make sense to attribute the presumption of illegality to exchanges of competitively sensitive information. These theoretical discussions require extra caution given the uncertain legality limits of benchmarking among HR departments.



4 Administrative Proceeding No. 08700.000992/2024-75. | 5 Administrative Proceeding No. 08700.001198/2024-49.

2.2. UNDER THE COMPETITIVE MAGNIFYING GLASS: STANDARDS OF REVIEW ENFORCED BY CADE

Within CADE case law, different standards have been enforced throughout the years to analyze anticompetitive conduct. Certain regulations that have been imported into Brazilian case law can sometimes get mistaken for one another:



(i) US standards of proof; and



(ii) those applicable to competitive violations provided for Treaty on the Functioning of the European Union (TFEU).

Given that these standards have previously been mistakenly deemed synonymous, commissioner Diogo Thomson sought to finally clarify which analysis standard CADE should enforce when assessing different types of violations against the economic order in Brazil.



In the trial of the administrative proceeding⁶ that investigated the fee schedule approved by the Regional Council of Real Estate Brokers of Goiás (CRECI/GO), prior to initiating the discussion on the schedule, commissioner Diogo Thomson provided⁷ clarification in his vote regarding the typical regulations and review standards that can be enforced in Brazil.

6 Administrative Proceeding No. 08700.000284/2022-72. | 7 Rapporteur Vote. Commissioner Diogo Thomson de Andrade. Administrative Proceeding No. 08700.000284/2022-72. Doc. SEI No. 1443323.

UNDER THE COMPETITIVE MAGNIFYING GLASS: STANDARDS OF REVIEW ENFORCED BY CADE

Regarding the US paradigm, per se standard vs. rule of reason, commissioner Thomson clarified that such parameters will be applied distinctly according to the accumulated experience of the authority examining the infraction:



The per se standard establishes that when there is enough experience to indicate that an anticompetitive practice is extremely likely to harm competition, this allows CADE to waive an in-depth investigation and prevent high prosecution expenses (conclusive presumption of illegality).



However, when there is uncertainty regarding the effects of a given practice, the rule of reason applies, which requires proof of the conduct's anticompetitive effects and, therefore, demands further investigation into aspects such as market structure, potential and concrete effects, and efficiency, among others.

Regarding the European paradigm – restriction by object vs. restriction by effect –, the standard enforced depends on the object of conduct:



If no objective other than restricting free competition (i.e. cartel) can be identified upon the investigation of conduct, such conduct will be deemed a restriction by object and CADE will only be responsible for verifying the materiality and authorship of the conduct. However, unlike with the per se standard, the presumption of illegality is rebuttable (*iuris tantum*), which enables the investigated party to demonstrate that the presumed effects occurred or not in the concrete case. As a result, the presumed illegality can be negated.



In turn, an investigated conduct will be deemed a restriction by effect when its object does not merely restrict free competition (i.e. unilateral practices in general). Finally, given that it is impossible to immediately presume conduct illegality, CADE must compare and assess the negative and positive effects of such conduct, in addition to potentially legitimate purposes that justify it.

UNDER THE COMPETITIVE MAGNIFYING GLASS: STANDARDS OF REVIEW ENFORCED BY CADE

Commissioner Diogo has summarized the details of these analyses as follows:

	American case law		European case law	
	<i>Standard Per Se</i>	<i>Rule of reason</i>	<i>Restriction by object</i>	<i>Restriction by effect</i>
Analysis Methodology	Simplified.	In-Depth.	Simplified to In-Depth.	In-Depth.
Analysis Methodology Features	Investigation restricted to early stages related to proving materiality and execution, that is, in-depth investigation of structure and market power is waived.	Investigation expands into market structure, potential and concrete effects, rationale for its application, resulting efficiency, among others.	Proof of the object of conduct, and of its harmful potential, is not required.	Comparing the violating effects with potential legitimate purposes that may justify the practice upon examination.
Presumption of illegality	Conclusive.	None.	Conclusive or rebuttable	None.
Burden of Proof	On the accused party.	None.	Defense and prosecution share the burden.	Defense and prosecution share the burden.

The commissioner concluded that Brazilian competition law seems to have taken inspiration from violation categories of European law. According to commissioner Diogo Thomson, these categories are provided for in Article 36 of Law No. 12,529/2011 and divided into two classes:



Restriction by object – The conduct presumably aims to harm free competition; and



Restriction by effect – Even without explicitly aiming to harm free competition, the conduct results in a negative net effect on the economic order, even if potential, and proving lack of intent does not exempt the investigated party.

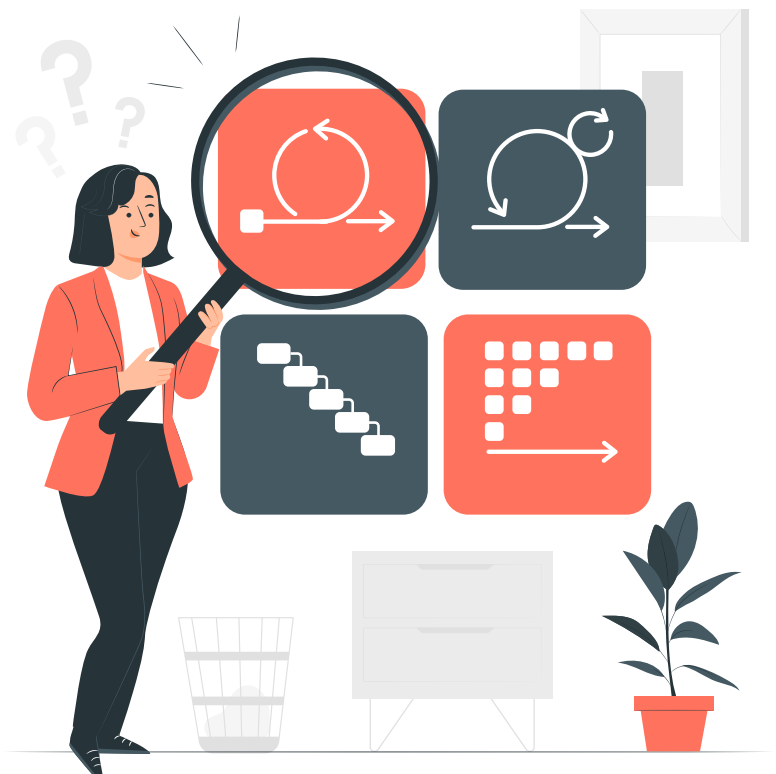
UNDER THE COMPETITIVE MAGNIFYING GLASS: STANDARDS OF REVIEW ENFORCED BY CADE

The choice of one of these methodologies (as explained by commissioner Victor Fernandes in a previous proceeding⁸) must take multiple factors into consideration, such as accumulated knowledge in the economic literature regarding potential effects of the investigated conduct, and prior experiences enforcing a given probatory standard, among others. According to commissioner Victor, definitively framing or not a given conduct as a violation is ultimately a public policy decision.

Finally, he acknowledged that, in the case of very specific conduct – hard-core cartels and cartels in bidding processes, for example – the per se standard can be applied. This should not, however, be enforced indiscriminately and requires well-established case law.

The remaining votes of CADE’S Tribunal were aligned with commissioner Diogo’s vote. commissioner Gustavo Augusto, however, despite having voted in the same way, presented a dissenting vote to dispute certain aspects of the argument mentioned previously.

According to Gustavo Augusto, the European legislation concepts of “restriction by object” and “restriction by effect” are not valid in Brazil, as they are not provided for in the Brazilian legal system. He argued that Brazilian competition law provides for per se violations (*“ilícito per se”*), which are formally provided for in criminal law, and for violations that are subject to analysis via rule of reason.



8 Collective Vote. Commissioner Victor Oliveira Fernandes. Administrative Proceeding No. 08700.005438/2021-31. Doc. SEI No. 1406519.

2.3. CALLING A PRICE TABLE “SUGGESTIVE” DOES NOT MAKE IT LAWFUL AND CAN BE A PROBLEM

Regarding the administrative⁹ proceeding against CRECI/GO, which investigated alleged influence to adopt a uniform or concerted conduct among real estate brokers in the state of Goiás, commissioner Diogo Thomson established a fee schedule analysis plan.

In his¹⁰ vote, the commissioner established the analysis steps:



1. Classification as restriction by object: The fee schedule will initially be classified as “restriction by object”.



2. Analysis of potential antitrust immunities and distortions of use:

It should be investigated whether or not the fee schedule is regulated by specific legislation, which could constitute a hypothesis of antitrust immunity. If so, whether it complies with the regulation’s limits should also be checked.



3. Classification of the schedule object:



a. Conclusive presumption: If the schedule is aimed at the end consumer, conclusive presumption of illegality applies;



b. Adoption of relative presumption: If the object is any other than the end consumer, rebuttable presumption of illegality applies.

⁹ Administrative Proceeding No. 08700.000284/2022-72. | ¹⁰ Rapporteur Vote. Commissioner Diogo Thomson de Andrade. Administrative Proceeding No. 08700.000284/2022-72. Doc. SEI No. 1443323.

CALLING A PRICE TABLE “SUGGESTIVE” DOES NOT MAKE IT LAWFUL AND CAN BE A PROBLEM

If rebuttable presumption applies:



4. Effective analysis of economic and legal conditions: Analysis of the economic and legal conditions of the case, evaluating aspects such as market power and dominant position.



5. Assessment of elements adjacent or specific to the body of evidence:

Finally, aspects such as coercion mechanisms, threats and boycotts, specific relationships between market links, collective bargaining agreements, etc. should be analyzed. At this point, the commissioner recalled that, when analyzing whether adopting the fee schedule should be mandatory or optional, the fact that a fee schedule is titled suggestive is not enough for it to be considered as such; a more comprehensive analysis that actually attests to the absence of coercion is required.

Therefore, from commissioner Diogo Thomson’s perspective, if the schedule is aimed at the end consumer, it will significantly affect the level of analysis, since, if this is the case, a conclusive presumption of illegality applies, which exempts the authority from a more in-depth analysis.

Although commissioner Diogo Thomson’s vote¹¹ was unanimously followed by the other members of CADE’s Tribunal, resulting in the conviction of CRECI/GO, commissioner Gustavo Augusto presented a dissenting vote on the analysis methodology. According to commissioner Gustavo, the Tribunal must follow CADE’S repeated case law, which divides the schedules into suggestive or compulsory. If they are suggestive, they may not be an infringement of the economic order. If they are compulsory, they will lead to a penalty.



¹¹ Collective Vote. Commissioner Gustavo Augusto. Administrative Proceeding No. 08700.000284/2022-72. Doc. SEI No. 1444539.

2.4. BRAZIL ADAPTS TO INTERNATIONAL TREND: REGULATION OF DIGITAL PLATFORMS MAY BECOME STRICTER

On October 10, 2024, the Ministry of Finance (“MF”) published a report on competition issues involving digital platforms. The report results from a public consultation (SRE/MF Call for Contributions No. 01/2024) carried out by the MF in early 2024, which received 301 contributions from 72 participants, including several companies and foreign authorities.



Among the competition concerns raised in the consultation and included in the report are exclusivity and self-preferencing practices, abusive price charging to enter digital ecosystems, excessive prices charged due to a monopolist position, killer acquisitions, and leverage practices.

Among the many regulatory changes suggested by the MF, the following stand out:



The designation of CADE as the competent authority to regulate the activities of digital platforms; and



The suggestion of creating a procedure for CADE to designate systemically significant digital platforms (similar to the “gatekeeper” concept adopted in the European jurisdiction through the Digital Markets Act).

Once designated as a systemically significant platform, it would then be subject to a series of procedural and transparency obligations that should be defined by CADE on a case-by-case basis, such as:

BRAZIL ADAPTS TO INTERNATIONAL TREND: REGULATION OF DIGITAL PLATFORMS MAY BECOME STRICTER



Prior notification of mergers;



Transparency rules for end users and professionals on commercial information regarding the use and offer of services and products; and



The duty to inform end users and professionals of changes to the terms of use or service offered.

The creation of a specialized CADE unit was also suggested to monitor and address issues relating to digital markets and to implement substantial obligations in cooperation with other regulators, such as the National Telecommunications Agency (ANATEL) and the Brazilian Data Protection Authority (ANPD), when necessary, depending on specific technical and sectoral aspects.

2.5. GOOGLE AND APPLE IN CADE'S SIGHTS

On November 25, 2024, CADE converted into an administrative proceeding an investigation against Apple that had been ongoing since December 2022. In its decision, CADE imposed a provisional measure against Apple, forcing the company to refrain from applying certain clauses in the Apple Developer Program License Agreement and the App Store Review Guidelines. Among other provisions, the clauses required, the mandatory use of Apple's payment processing system for in-app purchases, i.e. within applications (in which Apple demands up to 30% commission on the amounts transacted by users on the platform). As a result, users and apps were allowed to use other forms of transaction processing in addition to the Apple Store.



GOOGLE AND APPLE IN CADE'S SIGHTS

Following the investigation against Apple, CADE opened an administrative investigation against Google the following week to investigate the adoption of the same payment processing limitations as Google Play for in-app purchases. According to CADE, Google was allegedly adopting measures similar to those adopted by Apple, which justified an investigation to ascertain the extent of these measures, and could be classified as competition infringements.



Both investigations unfold against the same backdrop as the widely known battle waged by Epic Games (developer of the game Fortnite) against Google and Apple in the U.S. courts. Epic Games is contesting the mandatory use of Apple and Google's payment processing system for in-app purchases and the fees inherent in processing payments on these platforms.

In the U.S., despite prevailing in court against Google, which was forced to adopt remedies relating to the distribution of applications for the Android operating system and billing services for in-app transactions, Epic Games was not as successful in its case against Apple. In that case, the market definition adopted by the jury was significantly more favorable to Apple, and the body of evidence on the case record and the specifics of Apple's closed operating model (not open source) contributed, actively or passively, to Apple's favor.

2.6. CADE KICKS OFF THE BETTING MARKET

The betting market also gained prominence in 2024. In late 2024, CADE approved the transaction involving the combination of the businesses of Betfair Brasil Holdings Ltda. with those of NSX Enterprise N.V. in Brazil. This is the first filing in CADE'S history involving the betting market.

Betfair is part of the Flutter Group, which is a global sports betting, gaming, and entertainment operator encompassing several international brands and operations, including Paddy Power, Betfair, PokerStars, Sky Bet, Sportsbet, FanDuel, Sisal, Max Bet, Tombola, Jungle Games and Adjarabet.

NSX is a company that operates in Brazil in the fixed-odds betting industry focused on online gaming, especially sports betting and casino games, through the following brands:



(i) Betnacional;



(iii) Mr. Jack Bet; e



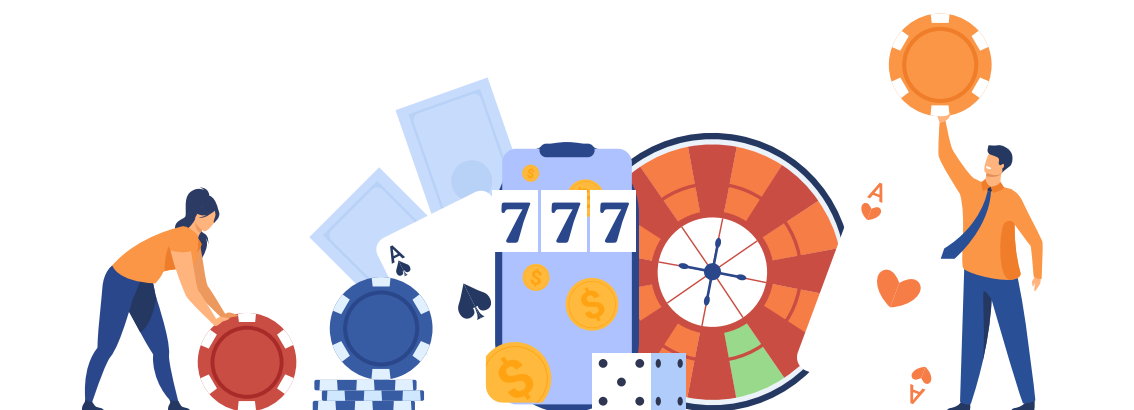
(ii) Betpix.io;



(iv) Pagbet.com.

The transaction resulted in a horizontal overlap between the parties in the online gambling segment and received unrestricted approval from CADE on October 10, 2024.

The number of licensing applications from betting companies authorized by the Ministry of Finance to explore the fixed-odds betting market is 70 companies, representing more than 170 bookmaker brands. The result of this volume of authorizations suggests that this market will undergo a natural accommodation and, inevitably, a merger process in the coming years.



3. CADE 360

3.1. CADE'S GENERAL TRENDS

CADE REINFORCES COOPERATION WITH REGULATORY BODIES IN 2024

In 2024, CADE intensified its interaction with various regulatory agencies to investigate anti-competitive practices in strategic sectors. Partnerships with the National Electric Energy Agency (ANEEL), the National Civil Aviation Agency (ANAC) and the National Supplementary Health Agency (ANS) stand out among the cooperation agreements signed.



The partnership with ANEEL aims to improve law enforcement against economic infractions in the Brazilian electricity sector, including by sharing databases and conducting joint studies.



With ANAC, the focus is on fostering fair competition in civil aviation and airport infrastructure, through exchanging information and creating educational materials.



The collaboration with ANS seeks to improve inspection and regulation in the supplementary health sector, providing protection for health insurance consumers.

CADE has sought to strengthen these partnerships through collaboration agreements, training actions, seminars and the production of educational materials, with the aim of disseminating antitrust activities and encouraging good regulatory practices. The trend towards cooperation reflects CADE'S commitment to developing policies and practices that benefit the economy and society as a whole, especially in strategic areas.

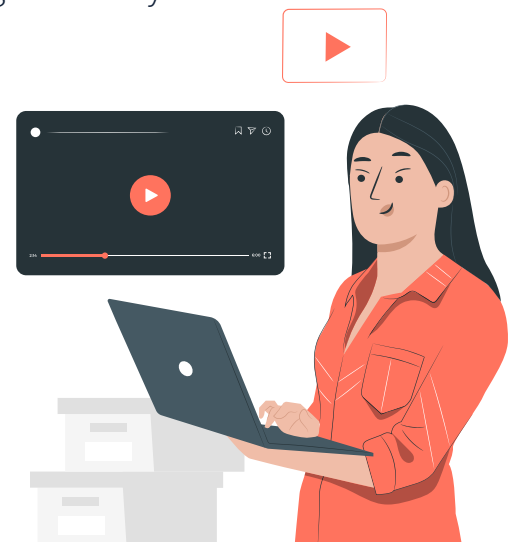


CADE ADVANCES IN THE CREATION OF THE GUIDELINES ON COOPERATION BETWEEN COMPETITORS

In 2024, CADE initiated the development of the Guidelines on Cooperation between Competitors, seeking to establish clear and objective guidelines for collaboration between competing companies. This guide aims to foster cooperation practices that are beneficial to the market and consumers, without compromising fair and healthy competition. The initiative seeks to interpret the existing rules, simplifying the understanding and application of antitrust regulations. The project is currently in the technical selection phase, in which CADE is choosing qualified experts to contribute to the guide's drafting.

CADE STUDY ANALYZES VIDEO-ON-DEMAND MARKET AND HIGHLIGHTS CONVERGENCE TRENDS

In July 2024, CADE published a detailed study on the relevant video-on-demand (VoD) market, highlighting the trends and challenges faced by the sector. The document, drawn up by the Department of Economic Studies ("DEE"), analyzes the definition of the relevant market in cases involving VoD platforms, considering both the global and Brazilian landscapes. The study addresses the different business models, such as Subscription VoD (SVoD), Transactional VoD (TVoD) and Advertising-Based VoD (AVoD). It discusses the competitive pressure exerted by these platforms on traditional pay-TV services.



CADE also emphasizes the importance of correctly defining the pertinent market for antitrust analysis, especially in digital markets. The observed trend is that, although VoD exerts significant competitive pressure on pay TV, it is not yet considered a perfect substitute. However, the

CADE STUDY ANALYZES VIDEO-ON-DEMAND MARKET AND HIGHLIGHTS CONVERGENCE TRENDS

advance of internet infrastructure and the growing adoption of streaming services indicate a possible future convergence between these markets. The study concludes that the pertinent market should be defined on a case-by-case basis, taking into account the specific conditions of each geographic market and technological developments.

CADE PUBLISHES STUDY ON EXPERIENCE WITH THE USE OF TRUSTEES

In November 2024, CADE published a study on the Brazilian and international experience with the use of trustees, who are independent third parties hired to help monitor compliance with the competition authority's decisions.

The study highlights that international practices vary little between antitrust authorities. Criteria such as independence, absence of conflict of interest, previous experience and technical qualifications are commonly used to choose trustees. Remuneration is generally paid by the parties involved and trustees must submit periodic reports to the authorities.



In Brazil, CADE has been using trustees more frequently in recent years. Between 2012 and 2023, 158 Settlement Agreements (TCCs) were signed, 16 of which used monitoring trustees. In structure control, 69 Merger Control Agreements (ACCs) were approved, of which 48 used some type of trustee. These figures indicate an evolution in the use of trustees, reflecting a more rigorous monitoring system in line with the best international practices.

3.2. MERGER CASES



SECTORS UNDER CADE'S SPOTLIGHT IN 2024 ¹²



Energy (16.57%)



Agribusiness (6.88%)



Real Estate Development
(15.17%)



Fuels (6.74%)



General Merchandise Retail
(8.01%)

GUN JUMPING

In 2024, 17 cases of gun jumping (when a transaction is concluded in advance of CADE'S authorization) were judged by CADE'S Tribunal, representing an increase of 112.50% compared to 2023. Among them, we highlight:



Investigation of acquisitions of AI startups by Big Techs: ¹³

In August 2024, the SG opened three procedures to investigate allegations of big techs acquiring artificial intelligence startups. The acquisitions of Anthropic by Amazon, Mistral AI by Microsoft and Character AI by Google are under investigation.

These investigations reflect CADE'S concern to ensure that acquisitions by big techs do not compromise competition and innovation in the AI sector. The initiation of proceedings allows for a detailed analysis of the potential impacts of these transactions on the market.

¹² Percentages referring to Merger Cases established in 2024. Available at : <https://www.estadao.com.br/economia/coluna-do-broad/CADE-recebe-recorde-de-notificacoes-de-operacoes-e-negocios-somam-r-1-tri/>. Last Access: January 28, 2025. | ¹³ APACS Nos 08700.005962/2024-55, 08700.005961/2024-19 and 08700.005638/2024-37.

GUN JUMPING

**CADE sets limit for gun jumping fines**

The investigation, which was initiated in 2019, involved the purchase and sale of tangible and intangible assets between Govesa Motors Veículos and Kuruma Veículos without CADE'S prior approval. In May 2024, CADE settled with the companies, which were fined BRL 2.4 million, and consolidated an important understanding of the Tribunal, amending case law to determine that fines for gun jumping respect the maximum limit of 20% of the (updated) value of the transaction, except in cases of willful misconduct by the parties involved¹⁴.

**CADE reinforces the definition of a family economic group**

In April 2024, CADE initiated proceedings to investigate the closing of the purchase and sale of tangible and intangible assets between NovaAgri Infra-Estrutura de Armazenagem e Escoamento Agrícola S.A. and the Gatto Brothers prior to CADE'S approval. In November 2024, CADE found the parties involved guilty of gun jumping and fined them BRL 1.8 million¹⁵.



This case consolidated an important understanding of CADE regarding the characterization of family economic groups, made up of individuals, considered for the purposes of notifying transactions to CADE. According to CADE, a family group is characterized by the union of individuals who act jointly in economic transactions. In the case of the Gatto Brothers, the fact that they were all brothers and partners in a holding company – which was not part of the transaction, but controlled the Gatto companies – was enough for CADE to consider that they were all part of the same economic group¹⁶.

¹³ APAC nº 08700.005463/2019-09. | ¹⁴ APAC No. 08700.005463/2019-09. | ¹⁵ APAC No. 08700.002241/2024-93. | ¹⁶ According to Opinion No. 92/2024 08700.000692 of the Merger No. 08700.000692/2024-96, presented spontaneously by the applicants and responsible for establishing the aforementioned APAC.

GUN JUMPING



CADE assessed that, even though they are individuals, their coordinated actions and joint economic transactions may constitute an economic group that should be subject to the same rules for filing and approval of mergers that apply to companies.

CADE'S TRIBUNAL REJECTS TWO TRANSACTIONS IN 2024



Transaction between 3R Petroleum and the Papa-Terra consortium

In September 2024, CADE'S Tribunal unanimously decided to reject the transaction involving 3R Petroleum Offshore S.A. ("3R") and the Papa-Terra Consortium .

In summary, during the course of the SG's review of the merger, the legal representatives of Nova Técnica Energy Ltda. (NTE) filed an administrative appeal with CADE, claiming that the notification of the merger was irregularly carried out by 3R. According to them, 3R submitted its request to CADE unilaterally, without the participation of NTE, which owns the assets involved in the transaction. NTE also claimed that 3R had omitted significant information, including the existence of an ongoing arbitration dispute before the London Court of International Arbitration relating to the transfer of NTE's assets to 3R.

The reporting commissioner, Camila Prado, ruled on the appeal and highlighted concerns about the way the SG conducts merger reviews, especially with regard to compliance with legal formalities. The main concern of CADE'S Tribunal was the way in which the transaction was notified.

3R submitted the transaction unilaterally, without the participation of NTE, which held the assets that were the object of the transaction, in violation of article 88 of

CADE'S TRIBUNAL REJECTS TWO TRANSACTIONS IN 2024

the Competition Defense Law, which requires that economic mergers be submitted to CADE by the parties involved in the transaction. This irregularity led to the rejection of the merger, with its consequent closure, without analysis of the merits. In addition, 3R allegedly concluded the transaction prior to CADE'S approval.

In view of these irregularities, an infraction notice was filed to investigate gun jumping, reinforcing the need for strict compliance with the rules on filing and approval of economic mergers. The merger investigation procedure has not yet been initiated by CADE.

Acquisition of Trevo by Knauf:

In April 2024, CADE'S Tribunal rejected the acquisition by Knauf do Brasil Ltda. of the plasterboard drywall manufacturing plant of Trevo Industrial de Acartonados S.A., citing significant concerns about mergers in the drywall sector¹⁷. The decision was unanimous and was based on the conclusion that the transaction could result in a significant dominant position on the part of Knauf, reducing competition and potentially harming consumers with higher prices and fewer product options. CADE pointed out that, despite the growth of the drywall market, there has been no entry of new competitors in recent years, which exacerbates competition risks.

The reporting commissioner, Victor Oliveira Fernandes, pointed out that the behavioral remedies proposed by the parties, such as production targets and price regulation, would be difficult to monitor and potentially ineffective. In addition, the analysis pointed out that market rivalry could be harmed, especially in the northeast of the country, an area with great potential for demand growth.



¹⁷ Ordinary Merger No. 08700.003198/2023-01.

CADE'S TRIBUNAL APPROVES ACQUISITION OF MARFRIG'S ASSETS BY MINERVA WITH RESTRICTIONS

In September 2024, CADE approved, with restrictions, the acquisition of Marfrig's assets¹⁸ by Minerva. In order to mitigate market competition risks, CADE imposed some specific conditions. The remedies imposed include:



The mandatory sale by Minerva of the Pirenópolis plant, in Goiás, which previously belonged to Marfrig and is the subject of the purchase and sale agreement; and



Rendering null and void the agreement between the parties limiting the expansion of Marfrig's own installed capacity for slaughtering or deboning at the production plant located in the municipality of Várzea Grande, state of Mato Grosso.

3.3. UNILATERAL CONDUCT



CADE has intensified investigations into unilateral anti-competitive conduct, resulting in the creation of a new department exclusively to address such cases. Through this new coordination, CADE seeks to increase efficiency in addressing unilateral conduct and has shown a preference for settlements as a way of quickly resolving these cases.

Provisional measures

Provisional measures have also been used more often by CADE to suspend potentially anti-competitive practices. In 2024, two significant examples were the provisional measure against Apple, already discussed in this document, and the provisional measure against CA Investment in connection with the political rights held in Eldorado Brasil, suspending their exercise due to market closure concerns¹⁸. In the latter case, the SG imposed the measure due to concerns that CA

¹⁸ Administrative Investigation No. 08700.007664/2024-08.

PROVISIONAL MEASURES

Investment could anticompetitively influence Eldorado Brasil's decisions, affecting the pulp market. The provisional measure was based on evidence that CA Investment was using its position to influence Eldorado Brasil's strategic decisions, such as the definition of prices and the allocation of funds, in order to harm competitors and consolidate its market power. The suspension of political rights aims to ensure that Eldorado Brasil operates independently, preserving competition in the sector and avoiding practices that could harm other competitors and consumers. The matter was judicialized and, on January 22, 2025, the Federal Regional Court of the 3rd Region (TRF-3) annulled the provisional measure applied by CADE¹⁹.



NEW DIGITAL MARKET INVESTIGATIONS

In 2024, CADE analyzed several cases involving unilateral conduct in the digital market and the use of software for anti-competitive practices, reflecting the sector's growing importance in the economy.



Meta AI and data use case²⁰

In July 2024, CADE initiated a preliminary procedure to investigate Meta for the compulsory use of Brazilian consumer data for artificial intelligence training. The investigation was prompted by a request from the Brazilian Institute for Consumer Defense, which alleged abuse of dominant position by Meta. The SG decided that there was no evidence of anti-competitive practices, and the procedure was closed.

¹⁹ Available at : <https://veja.abril.com.br/coluna/radar/trf-3-restabelece-direitos-politicos-da-papel-excellence-na-eldorado>. Last access on: January 28, 2025. | ²⁰ Preparatory Procedure No. 08700.004482/2024-77. | ²⁰ Preparatory Procedure No. 08700.003089/2023-85.

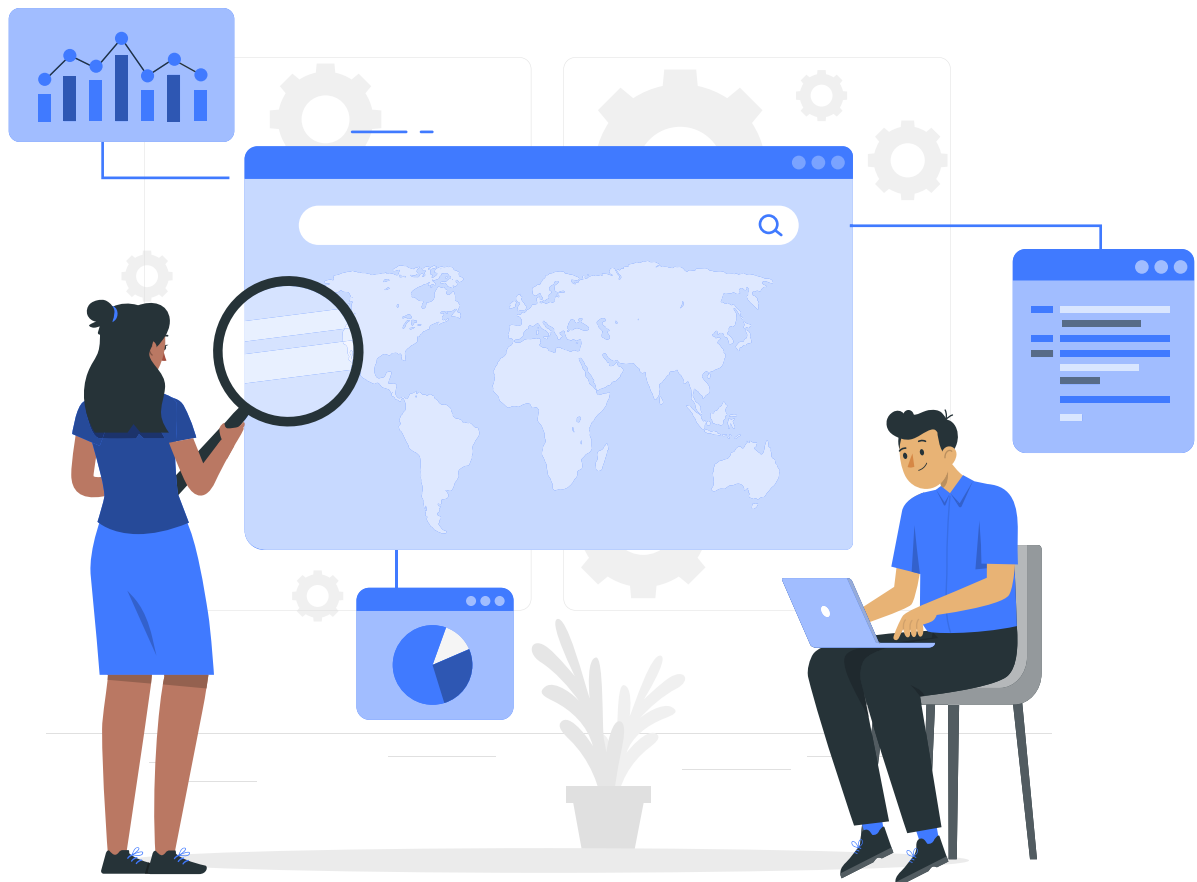
NEW DIGITAL MARKET INVESTIGATIONS



Investigation into “Jedi Blue” agreement between Meta and Google closed²¹

In May 2023, CADE initiated a preliminary investigation into the agreement between Meta and Google, which allegedly gives Facebook an advantage in Google’s ad auctions in exchange for Meta giving up its own ad service plans. CADE’S investigation aimed to determine whether the agreement violated Brazilian antitrust laws by creating a dominant position for both companies and limiting competition, harming advertisers and consumers.

In December 2024, the SG decided to dismiss the administrative investigation, concluding that there was insufficient evidence of an infringement of the economic order. The analysis determined that the agreement, known as the Network Bidding Agreement, did not impose absolute limitations on either party’s right to develop or improve competing products or services.



²¹ Preparatory Procedure No. 08700.003089/2023-85.

NEW DIGITAL MARKET INVESTIGATIONS



CADE closes investigation into Google's anti-competitive practices in the search and snippets market²²



In December 2024, CADE dismissed an administrative investigation against Google concerning the market for searches and snippets (snippets of text that appear in search results). The procedure investigated whether Google was using anti-competitive practices by highlighting its own services in search result snippets, potentially harming competitors and limiting consumer choice. The investigation also analyzed whether Google was favoring its own products and services over others, affecting the competitive dynamics of the search market.

CADE decided that while Google's practices may have impacted competitors' visibility, they did not constitute an abuse of a dominant position capable of significantly harming competition. However, CADE stressed the importance of continuing to monitor the search market to ensure that future practices do not compromise competition and innovation in the sector.



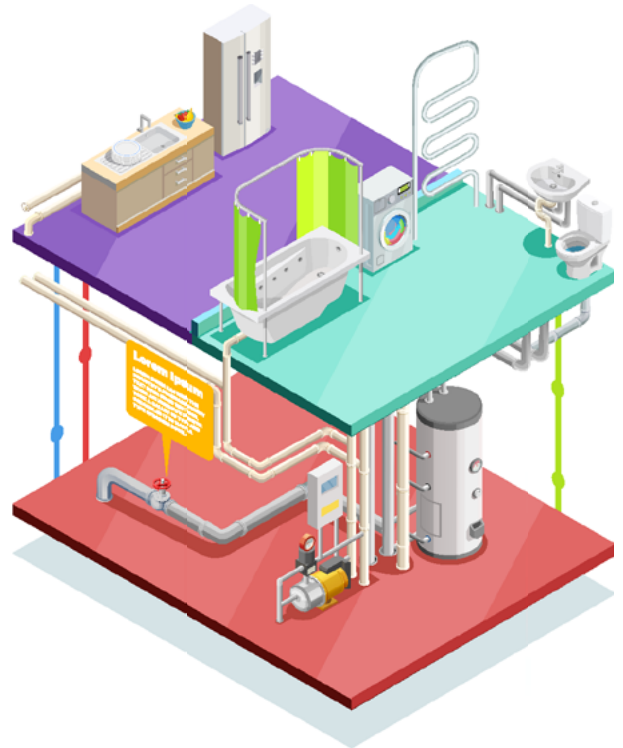
CADE investigates the use of algorithms and pricing in the fuel market

In November 2024, the SG initiated an investigation into the use of pricing software in the fuel market²³. The investigation focuses on a company that develops algorithms that generate dynamic prices based on cost, volume, and practiced prices, aiming to increase gas station profitability. CADE is analyzing whether this practice could lead to uniform commercial conduct between competitors, which could constitute an infringement of the economic order.

²² Administrative Investigation No. 08700.003498/2019-03. | ²³ Administrative Proceeding No. 08700.006280/2024-60.

SG RECOMMENDS CONVICTION OF RINNAI FOR MINIMUM ADVERTISED PRICE (MAP) POLICY IN THE GAS WATER HEATER MARKET WITH EFFECTS ON DIGITAL RETAIL

In September 2024, the SG recommended that Japanese multinational Rinnai be convicted of anti-competitive conduct in the domestic gas water heater market²⁴. According to the investigation, the company adopted a policy of minimum advertised prices, mainly affecting e-commerce, including marketplaces and retailers' websites, where the possibility of bargaining is reduced.



The investigation was initiated in April 2022, following a complaint received via “Clíque Denúncia” (reporting link) on CADE’S website. The SG found that Rinnai imposed price lists on its distributors, monitored the prices of advertisements on the Internet, and reviewed the commercial conditions of resellers who did not adhere to the established policy. Based on the evidence gathered, the SG concluded that Rinnai’s conduct infringed on the economic order and recommended that it be convicted and fined. In view of these findings, the case was sent to the CADE’S Tribunal, which will be responsible for the final decision.

3.4. COLLUSIVE CONDUCT

Between 2019 and 2024, 25 leniency agreements were signed, of which only one has already been judged by CADE, indicating a substantial backlog of investigations still underway or yet to be initiated. In 2024, only two administrative proceedings arising from leniency agreements were judged:

²⁴ Administrative Proceeding No. 08700.002702/2022-66.

COLLUSIVE CONDUCT



1. The Brazilian market cartel for residential water consumption meters (hydrometers or water meters²⁴); and



2. The cartel in the tender for the urbanization of favelas in Rio de Janeiro (“PAC Favelas”²⁵).

In this regard, the SG formed a new working group to collect contributions from the antitrust community seeking to improve CADE’S Leniency Program, holding six meetings during 2024, with around 100 participants. Contributions were received until January 2025²⁶.

In 2024, CADE’S Tribunal tried 17 administrative cases involving cartels. Of these, eight were partially convicted and four were dismissed.



One of the convictions imposed by CADE’S Tribunal involved the salt cartel, whose coordination between salt producers and refiners allegedly affected the entire production chain in Brazil from 1992 to 2002. Considered hard-core, the cartel relied on various monitoring mechanisms, especially concerning prices and penalties for non-compliance with agreements. One of the administrative proceedings, initiated in January 2019, and the result of the dismemberment of the original 2008 case, involved the company Ciemarsal, as well as three individuals, who were convicted in December 2024. The total amount of fines imposed was BRL 1.5 million²⁷.



In August 2024, CADE’S Tribunal also convicted a Showa Corporation manager of participating in a cartel in the electric power steering (EPS²⁸) market. The investigation, which was initiated in 2016, revealed that companies such as NSK Brasil Ltda., TRW Automotive and others exchanged sensitive information and adjusted prices and commercial conditions between 2007 and 2011. The manager was fined approximately BRL 106,000.00, while the case against two other individuals was dismissed for lack of evidence.

²⁴ Administrative Proceeding No. 08700.009165/2015-56. | ²⁵ Administrative Proceeding No. 08700.007776/2016-41. | ²⁶ Available at : <https://www.gov.br/CADE/pt-br/assuntos/noticias/CADE-prorroga-consulta-publica-para-atualizacao-do-guia-de-leniencia>. Last Access: January 28, 2025. | ²⁷ Administrative Proceeding No. 08700.000556/2019-39. | ²⁸ Administrative Proceeding No. 08700.002070/2019-35.

CADE INCREASES THE NUMBER OF DAWN RAIDS IN CASES INVOLVING CARTELS IN PUBLIC TENDERS

In 2024, CADE intensified its actions to combat cartels in public tenders, carrying out dawn raids in partnership with other agencies.



NOVEMBER 2024

In November 2024, CADE and the Public Prosecution Office of Rio Grande do Sul (MPRS) carried out “Operation Chameleon,” which aimed to dismantle a cartel scheme and fraud in public tenders in the south of Brazil. In the operation, 30 search warrants were served on companies and residences in Rio Grande do Sul and Paraná to investigate fraud totaling BRL 460 million²⁹.

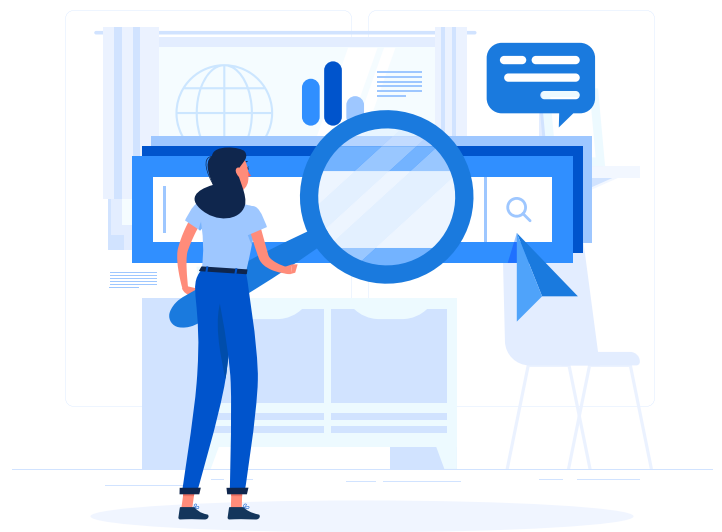


DECEMBER 2024

The following month, CADE, the Office of the Comptroller General (CGU) and the Federal Highway Police (PRF) launched an operation to investigate an alleged cartel in tenders for highway engineering works, with contracts totaling almost BRL 9 billion. The action involved search warrants at several construction companies in Goiás, Minas Gerais, Tocantins, Pará and Maranhão³⁰.

INCREASED NUMBER OF COMPETITIVELY SENSITIVE INFORMATION EXCHANGE CASES ANALYZED BY CADE

In 2024, CADE intensified its investigations into the exchange of competitively sensitive information. Several multinational companies and large Brazilian companies were the target of investigations for suspected anti-competitive practices.



²⁹ Available at : <https://www.gov.br/CADE/pt-br/assuntos/noticias/CADE-e-ministerio-publico-do-rs-realizam-operacao-para-apurar-suposto-cartel-em-licitacoes-publicas-no-sul-do-pais#:~:text=O%20Conselho%20Administrativo%20de%20Defesa,dinheiro%20ono%20fornecimento%20de%20produtos>. Last Access: January 28, 2025. | ³⁰ Available at : <https://www.gov.br/prf/pt-br/noticias/nacionais/2024/dezembro/CADE-cgu-e-prf-realizam-operacao-para-apurar-suposto-cartel-em-licitacao-de-obras-de-engenharia-rodoviaria#:~:text=O%20Conselho%20Administrativo%20de%20Defesa,obras%20e%20oservi%C3%A7os%20de%20engenharia>. Last Access: January 28, 2025.

INCREASED NUMBER OF COMPETITIVELY SENSITIVE INFORMATION EXCHANGE CASES ANALYZED BY CADE



In **July 2024**, the SG initiated an investigation into the alleged exchange of competitively sensitive information in the international light motor vehicle market³¹. The case was initiated on the basis of a leniency agreement, which led to investigations against Audi, BMW, Porsche, Mercedes-Benz and Volkswagen AG, as well as 23 individuals. The case is still under investigation, with an open deadline for the investigated companies to present their defense.



In **September 2024**, the SG initiated an administrative proceeding to investigate alleged anti-competitive practices in the Brazilian forklift market³². The investigation involves 11 companies and several individuals who allegedly practiced the systematic exchange of sensitive information, the presentation of coverage proposals and an agreement not to hire workers, known as a no-poach agreement. The investigation stems from a leniency agreement and is still ongoing at the SG.



In **October 2024**, the SG simultaneously initiated two administrative proceedings to investigate the exchange of competitively sensitive information between the HR departments of Brazilian and multinational companies. The proceedings are currently under analysis by the SG.

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³¹ Administrative Proceeding No. 08700.000478/2024-30. | ³² Administrative Proceeding No. 08700.007061/2024-06.

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