MINISTRY OF JUSTICE
Administrative Council for Economic Defense – CADE
Office of Commissioner José Levi Mello do Amaral Júnior

Administrative Proceeding to Investigate a Merger No. 08700.005962/2024-55

Complainant:	Administrative Council for Economic Defense (CADE) – *Ex officio*
Respondents:	Amazon.com Inc and Anthropic PBC
Counsels:	Daniel Costa Rebello, Gabriela Leão Ferreira Alves de Oliveira and Eduardo Frade Rodrigues
Reporting Commissioner:	José Levi Mello do Amaral Júnior

OPINION OF THE REPORTING COMMISSIONER

PUBLIC ACCESS VERSION

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HEADNOTE:

ADMINISTRATIVE PROCEEDING TO INVESTIGATE A MERGER. ACQUISITIONS OF MINORITY SHAREHOLDINGS. COOPERATION AGREEMENTS BETWEEN A COMPUTING INFRASTRUCTURE PROVIDER AND A DEVELOPER OF ARTIFICIAL INTELLIGENCE MODELS. NO CONCENTRATION. NO PARTNERSHIP AGREEMENT. NO *GUN JUMPING*. CASE DISMISSED.

1. Acquisitions by Amazon of minority shareholdings in Anthropic and the conclusion of commercial agreements involving financial investment, the provision of computing infrastructure, cloud services and the distribution of artificial intelligence models.
2. Minority shareholdings without rights conferring sole or joint control over Anthropic on Amazon.

3. Absence of a joint undertaking and of the sharing of risks and results of the economic activity covered by the contracts, in accordance with the requirements of CADE Resolution No. 17/2016 and the case law of this Council.
4. No finding of a partnership agreement. The collaboration does not fall within the scope of the types of transactions set out in Article 90 of Law No. 12.529/2011.
5. Conclusion limited to the shareholdings, contracts and clauses submitted for analysis. No competition immunity for minority investments and collaboration agreements between computing infrastructure providers and developers of artificial intelligence models.
6. Possibility of investigating potential competition risks and any anti-competitive practices through the monitoring of conduct provided for in Article 36 of Law No. 12.529/2011.
7. No finding of prior implementation of a concentration. Case closed.

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1. REPORT

1. On 10 October 2024, Order SG No. 1129/2024 (SEI 1453842) was signed, ordering the initiation of an Administrative Proceeding to Investigate a Merger (APAC) in light of **the partnership established between Amazon Web Services, Inc. ("AWS"), as well as other subsidiaries of Amazon.com Inc ("Amazon"), and Anthropic PBC ("Anthropic")** to expand collaboration between the two parties for the development of generative artificial intelligence ("Collaboration Agreements") and for Amazon to make a minority investment ("Agreements") in Anthropic through two notes convertible into shares.

2. On 26 August 2024, Official Letter No. 7182/2024/SG-TRIAGEM AC/SGA1/SG/CADE (SEI 1433598) was sent to Amazon AWS Serviços Brasil Ltda. ("Amazon") requesting information regarding the aforementioned partnership.

3. On 26 September 2024, a response was received from Amazon (SEI 1449607), supplemented by a statement sent on 2 October 2024 (SEI 1452357).

4. On 22 November 2024, Amazon submitted a supplementary response to the letter containing further clarifications (SEI 1477082).

5. On the same date, Anthropic submitted information relating to the Transaction (SEI 1477091).

6. On 23 April 2025, Anthropic submitted an updated supplement to the information previously provided (SEI 1550520).

7. On 31 March 2026, CADE's General Superintendence (SG/CADE) published Technical Note No. 9 (SEI 1726704), in which it concluded that the case should be referred to this Tribunal for information purposes, a decision upheld by SG Order No. 409/2026 (SEI 1726710).

8. On 9 April 2026, the case was assigned to me as the reporting commissioner by lot, as per Case Allocation Certificate No. SEI 1732279.

9. On 23 April 2026, Amazon submitted a supplementary response to the Official Letter containing further clarifications (SEI 1740664).

10. The case was included on 8 May 2026 on the agenda of the 265th Ordinary Judgment Session (SOJ), which took place on 13 May 2026. However, at the request of this rapporteur, it was removed from the agenda at the start of the session, as recorded in the minutes published in the Official Gazette (SEI 1755242) and the Judgment Certificate (SEI 1755521).

11. On 19 May 2026, Official Letter No. 2982/2026/GAB6/CADE (SEI 1754904) was sent to Amazon requesting further information regarding the transaction initially under investigation and other subsequent related transactions.

12. On 5 June 2026, a reply (SEI 1764619) to Official Letter No. 2982 was received, in which the respondent, Amazon, through its legal representatives, stated that, in line with its previous submissions, the Agreements were not subject to mandatory notification because:

> (i) Anthropic, which constitutes an economic group in its own right, did not record revenue and/or turnover in Brazil equal to or greater than BRL 75 million in the years 2022, 2023 and 2024; and/or (ii) the Investments did not meet the notification criteria for the acquisition of a minority stake set out in Articles 10 and 11 of CADE Resolution No. 33/2022; and/or (iii) the Collaboration Agreements did not constitute a partnership agreement. (SEI 1764619)

13. Furthermore, Amazon's representatives (SEI 1764619) argue that all the transactions carried out are pro-competitive in nature, claiming that the funding provided would enable

Anthropic to continue developing generative artificial intelligence systems responsibly, thereby creating a robust alternative to other market leaders with substantial financial resources, such as Microsoft, Meta and Google.

14. Amazon also maintains that the agreements signed, **[RESTRICTED ACCESS TO CADE AND AMAZON]**, are not exclusive in nature and actively promote innovation, allowing, for example, Anthropic to share suggestions that help Amazon improve the development of its own AI processors (Trainium chips). In this way, the partnership increases structural competition and the options available to end customers.

15. **[RESTRICTED ACCESS TO CADE AND AMAZON]**

16. To demonstrate Anthropic's alleged commercial independence, AWS Brazil highlighted that the company had entered into technology partnerships and computing capacity contracts and had received investments or investment commitments from other parties, including NVIDIA, Microsoft, Google, Broadcom and SpaceX. According to the Respondent, these relationships would demonstrate that Anthropic utilises multiple cloud providers and remains free to engage with suppliers and investors who are competitors of Amazon.

17. On 6 July 2026, Official Letter No. 4144/2026/GAB6/CADE (SEI 1778494) was sent to Amazon requesting further clarification on the scope and structure of the collaboration between the parties.

18. On 31 July 2026, Amazon submitted a response to Official Letter No. 4144 (SEI 1792764).

19. In response to Official Letter No. 4,144/2026, Amazon submitted copies of the different versions of **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

20. With regard to computing infrastructure, the Respondent stated that Project Rainier corresponds to the cluster developed by AWS to fulfil the order for capacity based on Trainium2 chips placed by Anthropic in 2024, and does not constitute a contract or an independent collaborative initiative. It also stated that the project became fully operational in October 2025, comprises nearly 500,000 Trainium2 chips and has a capacity exceeding 350 MW, with projections to exceed 1 GW. **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

21. Amazon stated that the agreements do not establish joint committees or structures for decision-making, development or governance. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. According to the Respondent, such mechanisms would be purely advisory and operational in nature, with each party remaining responsible for its own decisions, products, costs and risks.

22. On the economic and commercial front, the Respondent reported **[RESTRICTED ACCESS TO CADE AND AMAZON]**. It also acknowledged **[RESTRICTED ACCESS TO CADE AND AMAZON]**. It maintained, however, that these provisions do not establish exclusivity nor do they prevent Anthropic from contracting other providers of cloud services, chips and computing capacity[1].

23. Finally, Amazon stated that confidential information obtained through the hosting, distribution, training or inference of the Claude models may not be used for purposes other than those set out in the agreements. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. On the basis of these elements, it reiterated that the instruments constituted non-exclusive commercial agreements for supply, licensing and distribution, without any joint undertaking or sharing of risks and results, and requested that the APAC be closed.

24. On 17 September 2026, this APAC was included on the agenda of the 272nd Ordinary Judgment Session, as per Certificate (SEI 1818994), to be held on 23 September 2026.

25. This is the report.

2. BRIEF CHRONOLOGY OF THE RESPONDENTS' ACTIVITIES

26. Amazon.com, Inc., founded in 1994, began its operations in the online book trade and subsequently expanded into other sectors. In 2006, the company launched Amazon Web Services (AWS), a division dedicated to providing on-demand technology infrastructure and services.

27. Anthropic PBC was founded in 2021 and is active in the development of artificial intelligence systems. Among its founders are Dario and Daniela Amodei, who previously held research and leadership roles at OpenAI. According to information released by Anthropic itself, the company adopts an approach known as 'Constitutional AI', a training method that guides models based on a predefined set of principles and rules.

[1] Computing capacity refers to the set of processing, memory, storage and communication resources required to run programmes and process data. Cloud computing allows these resources to be accessed remotely, on a shared or dedicated basis and on-demand, without the user having to acquire and manage the entire corresponding physical infrastructure. These resources are hosted in data centres, facilities that house servers, storage and communication systems, power supplies, cooling systems, security measures and all other components necessary for the operation of digital services.
See NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY. The NIST definition of cloud computing. Gaithersburg: NIST, 2011. NIST Special Publication 800-145. Available at: <https://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf>. Accessed on: 21 Sept. 2026.

28. This methodology was used in the development of the Claude family of models. Since the launch of the first version, Anthropic has introduced new generations and variants of the model, including Claude 2 and Claude 3, with the Opus, Sonnet and Haiku versions.

29. The development of foundational models, such as those in the Claude family, depends, amongst other inputs, on data, specialised human resources and computational capacity.

30. The term 'computing capacity' refers to the processing resources required to run algorithms. These resources can be obtained through in-house infrastructure or cloud computing services, which allow remote access to servers, storage, networks and processing units.[2]

31. According to the description available on the AWS website, data centres comprise servers, storage systems, network infrastructure, and cooling and power supply systems.[3]

32. The processing carried out on these servers utilises chips or semiconductors, including accelerators designed for artificial intelligence applications, such as graphics processing units. According to information released by Amazon, AWS also develops proprietary accelerators for these applications, including Trainium and Inferentia.[4]

33. Computational capacity is used, amongst other stages, for training and inference.[5] Training involves processing the data used in model development, whilst inference refers to running the trained model to respond to user requests.

34. In the context of the relationship between AWS and Anthropic, the companies announced the so-called 'Project Rainier', which, according to the parties involved, became operational in October 2025. Amazon reported that the project involved estimated investments of USD 11 billion and expanded the computing capacity made available to Anthropic.[6]

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[2] COPE, Lion. What Is Computing Power and How Is It Measured? Available at: https://engineerfix.com/what-is-computing-power-and-how-is-it-measured/. Accessed on: 17 June 2026.
[3] AMAZON WEB SERVICES. What is a data centre? Available at: https://aws.amazon.com/pt/what-is/data-center/. Accessed on: 17 June 2026.
[4] AMAZON WEB SERVICES. Silicon. Improve performance, reduce costs and enhance security with AWS silicon. Available at: https://aws.amazon.com/pt/silicon-innovation/. Accessed on: 17 June 2026.
[5] Training is the stage at which the model processes data and adjusts its internal parameters to learn relevant patterns and relationships. Inference is the subsequent use of the trained model to process a given input and produce a response or result. In simple terms, training develops or adapts the model, whilst inference corresponds to its execution. See GOODFELLOW, Ian; BENGIO, Yoshua; COURVILLE, Aaron. Deep learning. Cambridge: MIT Press, 2016. Available at: https://www.deeplearningbook.org/. Accessed on: 21 September 2026.
[6] AMAZON WEB SERVICES. AWS activates Project Rainier: One of the world's largest AI compute clusters comes online. Available at: https://www.aboutamazon.com/news/aws/aws-project-rainier-ai-

35. According to information released by Amazon and Anthropic, Project Rainier involves the installation of approximately one million Trainium2 chips for Anthropic's workloads. The characterisation of the project as the largest artificial intelligence computing cluster corresponds to the description provided by the companies themselves.[7]

36. The relationship between Amazon and Anthropic has developed progressively. According to information released by Amazon, Anthropic was already using AWS cloud services for its operations in 2021.[8]

37. In September 2023, Amazon announced a partnership with Anthropic, accompanied by a commitment to invest up to USD 4 billion, hereafter referred to as 'Anthropic I'. According to information released by the company, the investment was structured through notes convertible into non-voting shares and accompanied by agreements relating to the provision of computing infrastructure.[9]

38. According to information released by Amazon, the initially announced investment was fully paid up by March 2024. The company also stated that the agreements provided for Anthropic's use of the Trainium and Inferentia accelerators in the development and operation of its models.[10]

39. On 22 November 2024, Amazon announced an additional investment of USD 4 billion in Anthropic, hereinafter referred to as "Anthropic II", also structured through

trainium-chips-compute-cluster; CNBC. Amazon opens $11 billion AI data centre in rural Indiana as rivals race to break ground. Available at https://www.cnbc.com/2025/10/29/amazon-opens-11-billion-ai-data-center-project-rainier-in-indiana.html. Accessed on: 17 June 2026.

[7] Chips, or semiconductors, are physical components responsible for computational processing. Artificial intelligence accelerators are chips specialised in mathematical operations used in model training and inference. The graphics processing unit, or GPU, was originally designed for graphics operations, but its ability to perform numerous calculations in parallel has also made it suitable for artificial intelligence applications. Trainium is the family of accelerators developed by AWS for training and inference of models at scale, whilst Inferentia is the family designed predominantly for inference workloads. Trainium2 refers to a specific generation of the Trainium family. See AMAZON WEB SERVICES. AWS Trainium. Available at: <https://aws.amazon.com/ai/machine-learning/trainium/>. Accessed on: 21 Sept. 2026; AMAZON WEB SERVICES. AWS Inferentia. Available at: <https://aws.amazon.com/ai/machine-learning/inferentia/>. Accessed on: 21 Sept. 2026.

[8] AMAZON WEB SERVICES. Amazon and Anthropic announce strategic collaboration to advance generative AI. Available at: https://www.aboutamazon.com/news/company-news/amazon-aws-anthropic-ai. Accessed on: 17 June 2026.

[9] ANTHROPIC. Amazon and Anthropic announce strategic collaboration to advance generative AI. Available at: https://www.aboutamazon.com/news/company-news/amazon-aws-anthropic-ai. Accessed on: 17 June 2026.

[10] Amazon Staff. Amazon and Anthropic deepen their shared commitment to advancing generative AI. Available at: https://www.aboutamazon.com/news/company-news/amazon-anthropic-ai-investment. Accessed on: 17 June 2026.

notes convertible into non-voting shares.[11] The deepening of the partnership took place in the first quarter of 2025. During this period, the promissory notes held by Amazon relating to the initial USD 4 billion were converted[12] into non-voting preference shares in Anthropic.

40. The timeline culminates in subsequent announcements scheduled for 2026, indicating a significant expansion of the collaboration. The terms[13] involved a new investment commitment (hereinafter referred to as "Anthropic III") by Amazon in the region of USD 25 billion, linked to a projected spend of over USD 100 billion on cloud services by Anthropic to enable operations at Project Rainier.

41. It is worth noting that the digital AI market has been operating on a multi-partner model. At the same time, Anthropic has received significant investment from other tech giants, notably Google, which has so far invested around USD 3 billion in the start-up and, on 20 April 2026, announced[14] a further USD 40 billion in investment, with Anthropic, in turn, committing to spend USD 200 billion on the company's services.

42. Meanwhile, Amazon is also working on the development of its distribution platform known as Amazon Bedrock[15] , a managed service that functions as a catalogue where corporate clients can access various AI models via a single application programming interface (API), through which it licences and distributes not only Anthropic's Claude model, but also models developed by other start-ups and competing technology companies, such as Meta's Llama models, and the systems created by Mistral AI, Cohere and AI21 Labs.[16]

43. In addition, Amazon develops its own AI initiatives in-house, such as the 'Amazon Titan' family of models. These proprietary models are designed for specific

[11] AMAZON WEB SERVICES. Amazon and Anthropic deepen strategic collaboration. Available at: https://www.aboutamazon.com/news/aws/amazon-invests-additional-4-billion-anthropic-ai. Accessed on: 17 June 2026.
[12]Bishop, Todd. Amazon deepens ties with Anthropic through equity conversion, adding billions to Q1 profit. Available at: https://www.geekwire.com/2025/amazon-deepens-anthropic-ties-with-equity-conversion-adding-billions-to-q1-profit/. Accessed on: 17 June 2026.
[13] ANTHROPIC. Anthropic and Amazon expand collaboration for up to 5 gigawatts of new compute. Available at: https://www.anthropic.com/news/anthropic-amazon-compute. Accessed on: 17 June 2026.
[14]Capoot; Rooney. CNBC. Google to invest up to $40 billion in Anthropic as search giant spreads its AI bets. Available at: https://www.cnbc.com/2026/04/24/google-to-invest-up-to-40-billion-in-anthropic-as-search-giant-spreads-its-ai-bets.html. Accessed on: 17 June 2026.
[15]AMAZON WEB SERVICES. Amazon Bedrock. Available at: https://aws.amazon.com/pt/bedrock/?trk=79571e2a-e0e3-4acb-a406-90623684ede0&sc_channel=ps. Accessed on: 17 June 2026.
[16] AMAZON WEB SERVICES. Available at: https://docs.aws.amazon.com/pt_br/bedrock/latest/userguide/model-cards.html. Accessed on: 17 June 2026.

tasks such as corporate summarisation, text generation and semantic search, and integrate with AWS's native cloud services.[17]

3. INTERNATIONAL EXPERIENCES

44. The complexity of the relationships established between major cloud computing service providers and artificial intelligence developers has attracted scrutiny from foreign authorities. These relationships often combine minority investments, the provision of computing capacity, the use of accelerators, technology licensing and the distribution of models, without necessarily taking the form of traditional corporate acquisitions. Given this situation, the authorities have sought to understand whether such arrangements may confer significant influence over the investee companies, create dependencies or generate competitive effects at different levels of the artificial intelligence supply chain.

45. International experience is also directly linked to the origin of this process. The Complaint concerning a Merger that gave rise to the present APAC was prompted by a statement from the UK competition authority regarding its investigation into the transaction currently under examination.

46. In order to establish objective comparative parameters that clarify, in a non-exhaustive manner, how this transaction and similar ones have been scrutinised in other jurisdictions and what approaches have been adopted in the context of merger control proceedings, I shall provide a brief international overview.

3.1. Competition and Markets Authority (United Kingdom)

3.1.1. Investigation under merger control

47. In the United Kingdom, on 24 April 2024, the *Competition and Markets Authority* (CMA) launched investigations[18] to assess whether agreements such as that between Amazon and Anthropic constitute a *'relevant merger* situation' under the *Enterprise Act* 2002, which would bring the matter within the CMA's competition review jurisdiction.

48. The CMA's focus was on analysing the concept of '*Material Influence*'. The UK authority investigated whether the combination of significant financial investment, the provision of critical computing infrastructure, and exclusivity or primacy in distribution gives Amazon the de facto ability to influence the start-up's commercial strategy, even without voting rights.

[17] AMAZON WEB SERVICES. Available at: https://docs.aws.amazon.com/pt_br/bedrock/latest/userguide/titan-models.html. Accessed on: 17 June 2026.
[18] CMA. Amazon / Anthropic partnership merger inquiry. Available at: https://www.gov.uk/cma-cases/amazon-slash-anthropic-partnership-merger-inquiry. Accessed on: 17 June 2026.

49. Although the CMA acknowledged that agreements relating to the provision of infrastructure and access rights could, in theory, confer such influence, it concluded on 27 September 2024 that the case did not meet the statutory turnover thresholds required for the CMA to consider it, and decided to close the case.[19]

3.1.2. Investigation under the Digital Markets, Competition and Consumers Act

50. In 2024, the *Digital Markets, Competition and Consumers Act* (DMCC) was passed in the United Kingdom, granting the CMA new regulatory powers relating to digital markets. In summary, under the DMCC, the CMA may designate a company as having *Strategic Market Status* (SMS) and impose a series of obligations on it, aimed at ensuring fair trading, choice and transparency, as well as requiring the notification of mergers and acquisitions not previously covered by antitrust legislation.

51. In July 2025, the CMA concluded its market investigation into cloud services conducted under the DMCC, finding that Amazon and Microsoft hold significant market positions. The CMA identified limitations on consumer choice resulting from data migration fees and barriers to interoperability, which restrict switching between providers and the use of multiple cloud platforms. The final report of the investigation recommended that the authority consider designating the two largest providers, Microsoft and Amazon Web Services (AWS), as significant market players (SMS) in relation to their cloud services. Artificial intelligence is cited in the document as a factor driving demand for accelerated infrastructure, increased investment by major providers and the development of new services.[20]

52. Following the conclusion of the investigation, the UK regulator embarked on an extensive consultation process with consumers, Amazon, Microsoft and their competitors. In March 2026, the CMA announced that, following discussions with the companies, Amazon and Microsoft had taken measures regarding cloud migration fees and interoperability to ensure greater choice for UK businesses and public sector organisations, as well as to reduce costs for customers who choose to use more than one cloud provider. The authority stated that it will continue to engage with both companies to ensure that the actions taken genuinely benefit consumers and to press ahead with further measures, particularly those relating to *multi-home*[21] (the simultaneous use of

[19] CMA. Amazon / Anthropic partnership merger inquiry, op. cit.
[20] COMPETITION AND MARKETS AUTHORITY (CMA). *Cloud infrastructure services: final decision report*. London: Competition and Markets Authority, 31 July 2025. Available at: https://assets.publishing.service.gov.uk/media/688b8891fdde2b8f73469544/final_decision_report.pdf. Accessed on: 14 Sept. 2026.
[21] The simultaneous use of multiple providers, or *multihoming*, is the parallel use of more than one platform or provider for the same category of service, such as the concurrent contracting of different cloud computing providers. It should not necessarily be confused with migration, as it may consist of the initial distribution of

multiple providers). The CMA has undertaken to review progress on the commitments within six months, after gathering feedback from competitors and users.[22]

3.2. European Commission (European Union)

53. In 2022, the *Digital Markets Act* (DMA) was adopted and came into force in the European Union; this legislation regulates digital markets with the aim of ensuring greater fairness and competition within the sector. In short, the DMA sets out a range of self-enforcing obligations and prohibitions for companies designated by the European Commission as 'gatekeepers'. Under the legislation, *gatekeepers* are large digital platforms providing so-called '*core platform* services', such as online search, app stores and messaging services.

54. When designating a *gatekeeper*, the European Commission takes into account criteria such as the platform's significant impact on the internal market and a well-established and enduring position as a relevant gateway between professional and end users. Even if the quantitative thresholds are not met, the European Commission may proceed with the designation following an investigation based on the qualitative criteria set out in Article 3.

55. On 3 July 2023, Amazon informed the European Commission that AWS provided cloud computing services constituting an essential platform service, but did not meet the thresholds relating to the number of users. On 18 November 2025, the Commission opened DMA Case No. 100033 to determine whether Amazon should be designated *as a gatekeeper* in relation to these services. The decision to open the case referred to the high

different workloads amongst several providers. See ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Competition in the provision of cloud computing services*. Paris: OECD Publishing, 2025. Available at: https://www.oecd.org/en/publications/2025/05/competition-in-the-provision-of-cloud-computing-services_f42582ad.html. Accessed on: 21 Sept. 2026.

[22] COMPETITION AND MARKETS AUTHORITY (CMA). *CMA announces package of actions on business software and cloud services*. GOV.UK, London, 31 March 2026. Available at: https://www.gov.uk/government/news/cma-announces-package-of-actions-on-business-software-and-cloud-services. Accessed on: 14 September 2026.

initial investments, economies of scale and scope, and *lock-in* effects[23] arising from the difficulties of using multiple clouds (*multicloud*)[24] or switching providers.[25]

56. The Commission also considered the breadth of the AWS ecosystem, the integration between computing, networking, storage and data management services, indirect network effects, and Amazon's conglomerate and vertically integrated structure. According to the decision, these characteristics could facilitate cross-subsidisation and strengthen the company's position in adjacent services. On 25 June 2026, the Commission announced its preliminary position in favour of designating the cloud services of AWS and Microsoft Azure under the DMA.[26]

57. In parallel with Case DMA.100033, the Commission launched Case DMA.100236, which has a broader scope. This investigation examines practices in cloud services that may limit their contestability or be unfair, and which are not effectively covered by the current obligations under the DMA. The Commission cited customer *lock-in*, barriers to multi-cloud usage and switching providers, limitations on interoperability, the bundling and tying of services, restrictions on data access and portability, and certain contractual terms.[27]

58. The Commission also noted that the DMA does not contain obligations specifically designed for cloud services and that several general provisions of Articles 5 and 6 do not apply to the sector or may be insufficient to address the concerns identified. Following this investigation, based on Article 19, the Commission may present a

[23] *Lock-in* is a situation in which technical, economic or legal costs make it difficult to switch suppliers, migrate data or workloads, or use different platforms simultaneously. It may arise, for example, from minimum purchase commitments, incompatible interfaces, proprietary formats, the adaptation of programmes to a specific infrastructure, migration costs or the loss of discounts. See ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Competition in the provision of cloud computing services*. Paris: OECD Publishing, 2025. Available at: https://www.oecd.org/en/publications/2025/05/competition-in-the-provision-of-cloud-computing-services_f42582ad.html. Accessed on: 21 Sept. 2026.

[24] *A multi-cloud* strategy refers to the use, by a single company, of services provided by two or more cloud computing providers. This strategy allows workloads to be distributed across different infrastructures and can reduce dependence on a single supplier, although its implementation may require technical and contractual adjustments. See ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Competition in the provision of cloud computing services*. Paris: OECD Publishing, 2025. Available at: https://www.oecd.org/en/publications/2025/05/competition-in-the-provision-of-cloud-computing-services_f42582ad.html. Accessed on: 21 Sept. 2026.

[25] EUROPEAN COMMISSION. *Case DMA.100033 – Amazon – cloud computing services*. Brussels, 18 Nov. 2025. Available at: https://ec.europa.eu/competition/digital_markets_act/cases/202550/DMA_100033_135.pdf. Accessed on: 14 September 2026.

[26] EUROPEAN COMMISSION. *Commission reaches preliminary position that Amazon's and Microsoft's market-leading cloud services should be designated under the DMA*. Brussels, 25 June 2026. Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_26_1444. Accessed on: 19 September 2026.

[27] EUROPEAN COMMISSION. Case DMA.100236 – Cloud Article 19. Brussels, 18 November 2025. Available at: https://ec.europa.eu/competition/digital_markets_act/cases/202550/DMA_100236_28.pdf. Accessed on: 14 September 2026.

legislative proposal or a draft delegated act aimed at updating these obligations. The decision to open the investigation, however, does not specify which measures will be adopted.

3.3. Federal Trade Commission (United States)

59. In January 2025, the *Federal Trade Commission*'s (FTC) *Office of Technology* published the report *Partnerships Between Cloud Service Providers and AI Developers*. The study, conducted under Section 6(b) of the FTC Act, examined transactions involving Microsoft/OpenAI, Amazon/Anthropic and Google/Anthropic. The companies provided information up to September 2024, which was subsequently supplemented by publicly available sources up to January 2025.[28]

60. Broadly speaking, the FTC found that the providers held equity stakes and certain revenue-sharing rights in their partners. It also identified, to varying degrees, rights of consultation, influence, control, preference or exclusivity, commitments to purchase cloud services, resource sharing, and product integration or expansion.

61. In defining sector-specific terms, the authority classifies *a 'cloud commitment'* as the commitment undertaken by the developer to purchase cloud services from the partner provider. It also addresses the concept of *'circular spending'*, the structure whereby a significant portion of the funds received by the developer is returned to the investor through the purchase of the provider's infrastructure. According to the FTC, this mechanism may also reduce the provider's financial exposure, not least because the infrastructure built to serve the partner can be used internally or offered to other customers.

62. After describing the terms of the partnerships, the FTC sets out three general areas of concern. The first concerns access to inputs and covers two distinct elements: computing resources and engineering staff. With regard to resources, the report considers the possibility that the partnership may alter the provider's incentives to make capacity available to non-affiliated developers.

63. It also recognises that differentiated conditions may ensure the partner has the resources necessary for training and operating its models. With regard to qualified personnel, it examines the sharing of engineers, their temporary placement within the partner's teams, and possible effects on the availability or mobility of these professionals.

[28] FEDERAL TRADE COMMISSION (FTC). *Partnerships Between Cloud Service Providers and AI Developers: FTC Staff Report on AI Partnerships & Investments 6(b) Study*. Washington, DC: Federal Trade Commission, Office of Technology Staff, Jan. 2025. Available at: https://www.ftc.gov/system/files/ftc_gov/pdf/p246201_aipartnerships6breport_redacted_0.pdf. Accessed on: 14 Sept. 2026.

64. The second area of focus relates to switching costs. The FTC adds to the general concept of *lock-in* the distinction between contractual and technical costs. The former may arise from purchase commitments, exclusivity clauses or other obligations, whilst the latter may stem from the adaptation of models, software, chips and architectures to the infrastructure used. The report links these factors to the possibility of increased difficulties in switching providers or using multiple clouds.

65. The third general area of concern relates to access to sensitive technical and commercial information. This information should not be confused with the data used to train the model. In aggregate terms, the report mentions performance, development methods, chip collaboration, finances, revenue, customer usage and future infrastructure requirements. The authority considered that such elements could assist with capacity planning and the development of proprietary models or applications.

3.4. Competition Authority (France)

66. On 28 June 2024, the *Autorité de la concurrence* published Opinion No. 24-A-05, the result of a sector inquiry initiated ex officio into the competitive functioning of generative artificial intelligence. The study focused on the upstream part of the value chain, particularly access to computing capacity, cloud infrastructure, data and skilled labour, as well as the investments and partnerships entered into between large digital companies and developers of foundational models. [29]

67. The authority identified high barriers to entry in the sector, arising from the costs of training models and the need for access to chips, cloud services, large volumes of data and qualified professionals. In this context, large digital companies enjoy advantages that are difficult to replicate, linked to their financial capacity, vertical and conglomerate integration, and presence at different levels of the value chain. According to the opinion, these characteristics may favour the formation or strengthening of digital ecosystems and, in certain cases, justify a competition analysis that is not limited to markets considered in isolation.

68. The authority acknowledged that minority investments and partnerships are not problematic in themselves, as they can enable emerging developers to gain access to funding, computing infrastructure and distribution channels, thereby fostering innovation. It emphasised, however, that such arrangements may reduce incentives for competition between the investor and the investee, produce vertical effects, broaden access to sensitive commercial information and create technological or commercial dependence on the partner provider. These risks may be exacerbated when agreements combine financial

[29] AUTORITÉ DE LA CONCURRENCE. *Opinion 24-A-05 on the competitive functioning of the generative artificial intelligence sector*. Paris, 2024. Available at: https://www.autoritedelaconcurrence.fr/sites/default/files/commitments/2024-09/24a05_eng.pdf. Accessed on: 14 September 2026.

contributions, commitments to purchase cloud services, access to chips and distribution channels, particularly where exclusivity clauses are present.

69. The opinion specifically mentioned the investments made by Amazon and Google in Anthropic, which enabled the developer to gain access to artificial intelligence chips and the customers of the respective cloud providers. The authority also highlighted that coordinated risks may be more significant when different large digital companies invest in the same developer or when a company holds stakes in competing developers.

70. For the purposes of merger control, the French authority noted that a minority stake may constitute a concentration where, considered in conjunction with special rights, governance mechanisms and privileged contractual relationships, it confers on the investor decisive influence over the strategy of the investee company. In the artificial intelligence sector, contracts relating to the provision of cloud services or the distribution of models may also form part of the body of evidence used to assess the existence of control, given the importance of these services for the development and marketing of solutions.

71. Even where they do not confer control, minority investments and partnerships may subsequently be examined in the light of the rules on anti-competitive agreements and abuse of a dominant position. The authority also highlighted that a lack of transparency regarding the content of such arrangements may hinder the assessment of their competitive effects and recommended that more information be made available to the authorities regarding minority investments made by large digital companies.

3.5. Studies by the Organisation for Economic Co-operation and Development (OECD)

72. In 2025, the Organisation for Economic Co-operation and Development (OECD) published three complementary studies on the conditions of competition in the artificial intelligence value chain. The documents examine, respectively, the provision of cloud computing services, the physical infrastructure required for the development of artificial intelligence, and the effects of the adoption of this technology on downstream markets. Taken together, the studies address different levels of the value chain and highlight that the competitive impact of artificial intelligence depends, to a large extent, on the conditions of access to computing capacity, models, data and distribution channels.

73. In the study *Competition in the Provision of Cloud Computing Services*[30], the OECD noted that cloud services constitute essential infrastructure for the training and deployment of artificial intelligence models. The sector is highly concentrated around

[30] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). *Competition in the provision of cloud computing services*. OECD Roundtables on Competition Policy Papers, No. 323. Paris: OECD Publishing, 2025.

Amazon Web Services, Microsoft Azure and Google Cloud, which benefit from economies of scale and scope, integration with other digital services and the capacity to make large investments. The organisation also highlighted barriers to switching providers and to using multiple clouds, relating, amongst other factors, to data egress fees, interoperability limitations, proprietary interfaces, and the technical and contractual complexity of migration.

74. According to the study, cloud credits can reduce the initial costs of adoption and encourage experimentation by start-ups, but they can also reinforce customer lock-in when offered in amounts that are difficult for smaller providers to match or when linked to purchase and exclusivity commitments. The OECD also highlighted risks arising from large providers' simultaneous involvement in cloud services and in the development and distribution of artificial intelligence models, including the possibility of tying, bundling, favouring their own services and excluding downstream competitors.

75. In the report *Competition in Artificial Intelligence Infrastructure*[31], the OECD broadened its analysis to include the physical infrastructure underpinning artificial intelligence, such as advanced chips, data centres, cloud services, networks and power sources. The study identified high levels of concentration and barriers to entry at different stages of the supply chain, stemming from capital intensity, technological complexity, economies of scale and long deployment times. It also highlighted growing vertical and conglomerate integration, as cloud providers develop their own artificial intelligence accelerators and invest in model developers, whilst chip suppliers expand their operations into other stages of the supply chain.

76. The OECD paid particular attention to partnerships and minority shareholdings, which often combine equity investments with commitments to supply, distribute or acquire computing capacity. Whilst such arrangements may enable developers to access the necessary infrastructure, reduce transaction costs and accelerate innovation, they may also reinforce positions of economic power, increase interdependence between firms at different levels of the chain and alter the incentives or ability to exclude competitors. Even where they do not confer control, minority shareholdings can facilitate access to competitively sensitive information and increase the risks of coordination between firms.

77. The report cited the partnership between Amazon and Anthropic as an example of this dynamic. According to the OECD, major cloud providers have been entering into strategic collaborations in which they make significant investments in model developers, who, in turn, commit to using the investor's infrastructure for training and deploying their systems. In this context, the organisation emphasised the importance of checking whether agreements of this nature contain exclusivity clauses, hinder the switching of suppliers,

[31] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). *Competition in artificial intelligence infrastructure*. OECD Roundtables on Competition Policy Papers, No. 330. Paris: OECD Publishing, 2025.

restrict rivals' access to essential inputs, or allow market positions to be extended along the value chain.

78. Finally, the study *Artificial Intelligence and Competitive Dynamics in Downstream Markets*[32] examined the effects of companies adopting artificial intelligence in downstream markets. The OECD recognised that these technologies can reduce operating costs and the minimum efficient scale, boost productivity, facilitate product differentiation and enable smaller firms to carry out activities that previously relied on large or highly specialised teams. These benefits, however, may be distributed unevenly, as established firms tend to have greater capacity to absorb integration costs and better access to data, models and computing infrastructure.

79. The OECD noted that the contestability of downstream markets depends on the practical ability to access, adapt and replace artificial intelligence models, and not merely on their formal degree of openness. Technical or contractual restrictions, low interoperability and lock-in between models, cloud services and other products can create dependence on vertically integrated providers. The organisation also emphasised that acquisitions, minority investments and exclusive agreements involving artificial intelligence companies warrant individual scrutiny when they confer strategic influence, restrict access to data or computing capacity, or consolidate dependencies capable of excluding competitors.

80. In summary, the three studies recognise that investment and partnerships can play a significant role in funding innovation and making the necessary resources available for the development of artificial intelligence. At the same time, they recommend that authorities monitor the relationships between infrastructure providers and model developers, taking into account not only corporate links but also procurement commitments, exclusivity clauses, access to sensitive information, switching costs and the effects of vertical integration. To this end, the OECD highlights the combined use of merger control, the enforcement of competition law against anti-competitive conduct, market studies and measures aimed at interoperability and non-discriminatory access to essential inputs.

3.6. An overview of comparative experiences

81. A comparison of international experiences indicates a consensus on the need to pay particular attention to the relationships between major computing infrastructure providers and developers of artificial intelligence models. Whilst minority investments and partnerships may broaden access to finance, computing capacity and distribution channels, such arrangements may also create dependencies, raise transaction costs,

[32] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). *Artificial intelligence and competitive dynamics in downstream markets*. OECD Roundtables on Competition Policy Papers, No. 331. Paris: OECD Publishing, 2025.

increase access to competitively sensitive information and alter the incentives of the companies involved.

82. The institutional approaches adopted, however, have ranged from the preparation of sector-specific studies and reports, to merger control, the investigation of possible anti-competitive conduct, and the adoption of regulatory instruments. In the United Kingdom, although the partnership between Amazon and Anthropic did not proceed to a substantive review under merger control as it did not meet the statutory turnover thresholds, concerns regarding the concentration of cloud services, barriers to interoperability and switching costs have come under broader regulatory scrutiny following the introduction of the DMCC. This comparative analysis thus demonstrates that the absence of requirements for prior scrutiny of a particular transaction does not necessarily preclude the monitoring of economic relationships and structural conditions within the sector.

83. The authorities and studies examined also agree on the importance of considering the economic reality of agreements, beyond the formally acquired shareholding or the absence of voting rights. The analysis may comprehensively cover financial contributions, commitments to purchase cloud services, the supply of chips and computing capacity, consultation or governance rights, information sharing, distribution channels and any preference or exclusivity clauses. The combination of these elements may be relevant in assessing the existence of influence over the investee company, technological or commercial dependence, and possible foreclosure effects throughout the artificial intelligence supply chain.

84. Such an overview may serve as a valuable basis for analysis, providing a multifaceted perspective on the specific features of the transaction in such a dynamic market. Naturally, the autonomy of the Brazilian jurisdiction and the existence of its own analytical criteria, established by Law No. 12,529/2011, are recognised, and it is on this basis that this APAC will be analysed.

4. ANALYSIS OF THE NOTIFICATION REQUIREMENT AND THE CONSTITUTION OF *GUN JUMPING*

85. As regards the nature of the transaction, Article 90 of the Competition Act states that the following constitute concentrations subject to notification to CADE:

> I – two or more previously independent undertakings merge;
>
> II – one or more undertakings acquire, directly or indirectly, through the purchase or exchange of shares, quotas, securities or transferable securities convertible into shares, or tangible or intangible assets, by contract or by any other means or form, control of or parts of one or more other undertakings;
>
> III – one or more undertakings take over one or more other undertakings; or

> IV – two or more companies enter into a partnership agreement, consortium *or joint venture*.

86. During the preliminary investigation, the General Superintendence classified the investments under item II of Article 90 of Law No. 12,529 and characterised the collaboration as a possible partnership agreement, in the following terms:

> It should be noted that **the acquisition of interests in companies through the purchase of shares or securities convertible into shares constitutes a concentration under Article 90(II) of Law No. 12,529/2011.**
>
> Notification shall be mandatory provided that the transaction falls within the scope of Article 9 in conjunction with Article 10 of CADE Resolution No. 33/2022, once the turnover threshold has been met.
>
> In the case in question, given the existence of horizontal and vertical relationships between Amazon and Anthropic, Amazon's shareholding exceeds 5 per cent, which triggers the application of Article 10(II)(a): "an acquisition conferring a direct or indirect holding of 5 per cent (five per cent) or more of the voting capital or share capital". However, as mentioned previously, Anthropic does not meet the turnover threshold set out in Article 88 of Law 12.529/11.
>
> As regards the collaboration established between the Represented Parties, this includes (i) a non-exclusive supply agreement relating to computing capacity, under which Anthropic acquires (and will continue to acquire) computing capacity from AWS for the training and deployment of its foundation models[33] (FMs); (ii) a non-exclusive licensing agreement allowing Amazon to use Anthropic's foundation models (FMs); (iii) a non-exclusive agreement to make Anthropic's FMs available to customers of Amazon Bedrock, a platform on which customers can also access FMs from other providers (such as AI21 Labs, Anthropic, Cohere, Meta, Mistral AI, Stability AI and Amazon); and (iv) a collaboration on the development of Amazon's AI chips. (...)
>
> In the same vein, it should be noted that **the possibility of structuring partnership agreements justifies, at the very least, the ad cautelam notification of certain contracts as acts of concentration**, as pointed out by Commissioner Carlos Jacques Vieira Gomes in his Opinion in APAC cases No. 08700.007461/2023-22 and 08700.005511/2023-37, given the commitments undertaken by economic operators in situations that raise concerns from a competition perspective, with a view to preserving the effectiveness of CADE's regulatory framework. (SEI 1726704) (emphasis added)

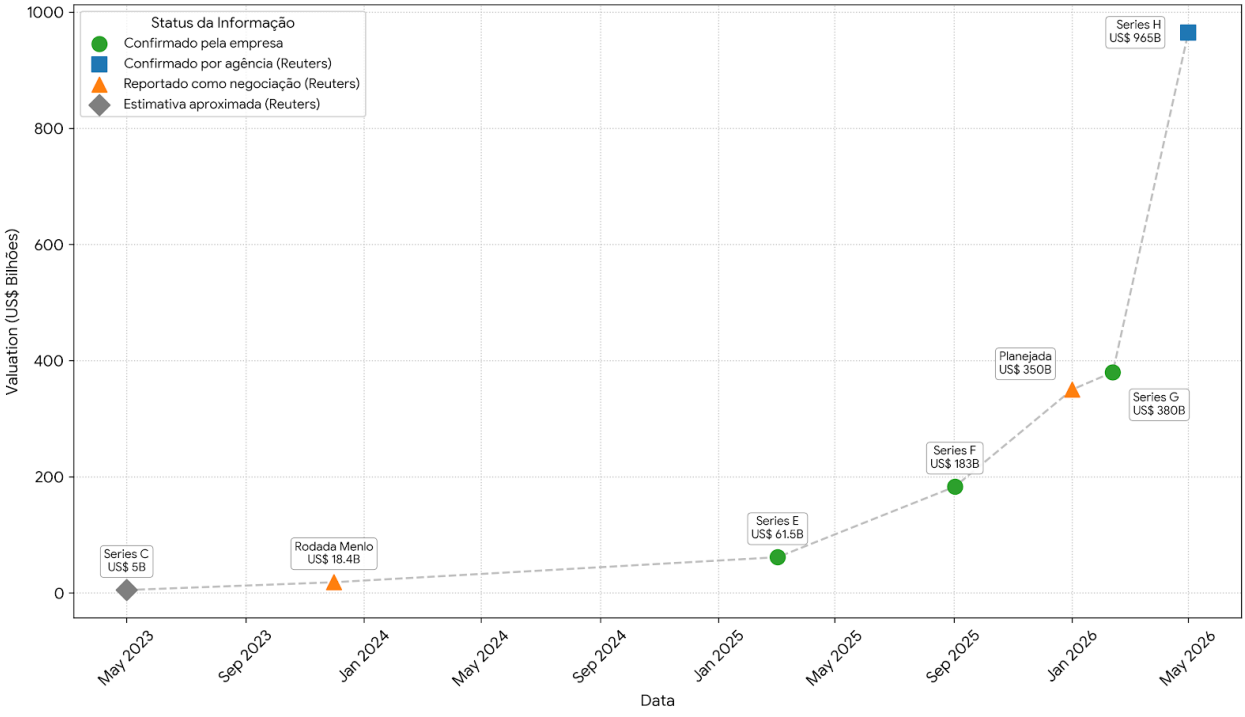
[33] A foundation model is a model trained on a large volume and variety of data and designed to serve as a basis for different tasks, which can subsequently be adapted to specific applications. A generative artificial intelligence model is one capable of producing new content, such as text, images, audio, video or code, in response to the inputs it receives. The terms are not equivalent: the first emphasises the model's general and adaptable nature, whilst the second describes its ability to generate content. See BOMMASANI, Rishi et al. *On the opportunities and risks of foundation models*. Stanford: Centre for Research on Foundation Models, 2021. Available at: https://arxiv.org/abs/2108.07258. Accessed on: 21 Sept. 2026.

87. In the present case, account must be taken of various rounds of investment over the last three years, which took place as described in the timeline and set out in greater detail in the table below, obtained from the response to Official Letter No. 2982/2026 (SEI 1764659):

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88. It should be noted that, due to the exponential appreciation of Anthropic's assets, the conversions of notes and acquisitions of non-voting shares, **[RESTRICTED ACCESS TO CADE AND AMAZON]** have not represented a significant increase in the proportion of capital held by Amazon since March 2025. The chart below, compiled from publicly available information, provides an approximate illustration of this appreciation:

Chart 1 – Approximate calculation of Anthropic's *valuation* between 2023 and 2026



Source: Prepared by the Office of Commissioner José Levi Mello do Amaral Júnior, based on public information[34]

[34] ANTHROPIC. Anthropic raises Series E at $61.5B post-money valuation. Anthropic Newsroom, 3 March 2025. Available at: https://www.anthropic.com/news/anthropic-raises-series-e-at-usd61-5b-post-money-valuation. Accessed on: 21 Sept. 2026.
ANTHROPIC. Anthropic raises $13B Series F at $183B post-money valuation. Anthropic Newsroom, 2 Sept. 2025. Available at: https://www.anthropic.com/news/anthropic-raises-series-f-at-usd183b-post-money-valuation. Accessed on: 21 Sept. 2026.

89. In this regard, the only purchase of securities convertible into shares that would constitute a concentration under the terms of Article 90(II) of Law No. 12,529/2011 was the Anthropic I transaction, dated 2023, which, as shown in Table 1 of this opinion, resulted in a diluted shareholding of **[RESTRICTED ACCESS TO CADE AND AMAZON]** [10–20 per cent] and an undiluted stake of **[RESTRICTED ACCESS TO CADE AND AMAZON]** [10–20 per cent] held by Amazon in Anthropic. This is because, insofar as the parties are competitors and operate in vertically related markets, Anthropic I falls within the scope of Article 10(II)(a) of CADE Resolution No. 33/2022, it results in a shareholding exceeding 5% of the company's share capital.

90. To assess whether notification is required, however, it is necessary to analyse the companies' turnover to determine whether, in the year prior to the transaction, the parties met the threshold set out in Article 88(II) of Law No. 12.529/2011 in conjunction with Article 1 of Interministerial Ordinance No. 994/2012.

ANTHROPIC. Anthropic raises $30 billion in Series G funding at a post-money valuation of $380 billion. Anthropic Newsroom, 12 Feb. 2026. Available at: https://www.anthropic.com/news/anthropic-raises-30-billion-series-g-funding-380-billion-post-money-valuation. Accessed on: 21 September 2026.

REUTERS. Google-backed Anthropic raises $450 million in latest AI funding. Reuters, 23 May 2023. Available at: https://www.reuters.com/markets/deals/alphabet-backed-ai-startup-anthropic-raises-450-million-funding-freeze-thaws-2023-05-23/. Accessed on: 21 September 2026.

REUTERS. Amazon steps up the AI race with an investment in Anthropic. Reuters, 25 Sept. 2023. Available at: https://www.reuters.com/markets/deals/amazon-steps-up-ai-race-with-up-4-billion-deal-invest-anthropic-2023-09-25/. Accessed on: 21 Sept. 2026.

REUTERS. Anthropic seeking to raise $750 million in funding round led by Menlo Ventures. Reuters, 21 Dec. 2023. Available at: https://www.reuters.com/markets/deals/anthropic-raise-750-mln-menlo-ventures-led-funding-round-information-2023-12-21/. Accessed on: 21 Sept. 2026.

REUTERS. AI start-up Anthropic close to raising $3.5 billion, sources say. Reuters, 24 Feb. 2025. Available at: https://www.reuters.com/technology/artificial-intelligence/ai-startup-anthropic-finalizing-35-billion-funding-round-wsj-reports-2025-02-24/. Accessed on: 21 September 2026.

REUTERS. Anthropic's valuation more than doubles to $183 billion after a $13 billion fundraising round. Reuters, 2 Sept. 2025. Available at: https://www.reuters.com/business/anthropics-valuation-more-than-doubles-183-billion-after-13-billion-fundraise-2025-09-02/. Accessed on: 21 Sept. 2026.

REUTERS. Anthropic plans new fundraising round at a valuation of $350 billion, sources say. Reuters, 7 Jan. 2026. Available at: https://www.reuters.com/technology/anthropic-plans-raise-10-billion-350-billion-valuation-wsj-reports-2026-01-07/. Accessed on: 21 September 2026.

REUTERS. Anthropic secures a $380 billion valuation following a $30 billion funding round. Reuters, 12 Feb. 2026. Available at: https://www.reuters.com/technology/anthropic-valued-380-billion-latest-funding-round-2026-02-12/. Accessed on: 21 Sept. 2026.

REUTERS. Anthropic raises $65 billion, nears $1T valuation ahead of IPO. Reuters, 28 May 2026. Available at: https://www.reuters.com/business/anthropic-raises-65-billion-now-valued-965-billion-2026-05-28/. Accessed on: 21 Sept. 2026.

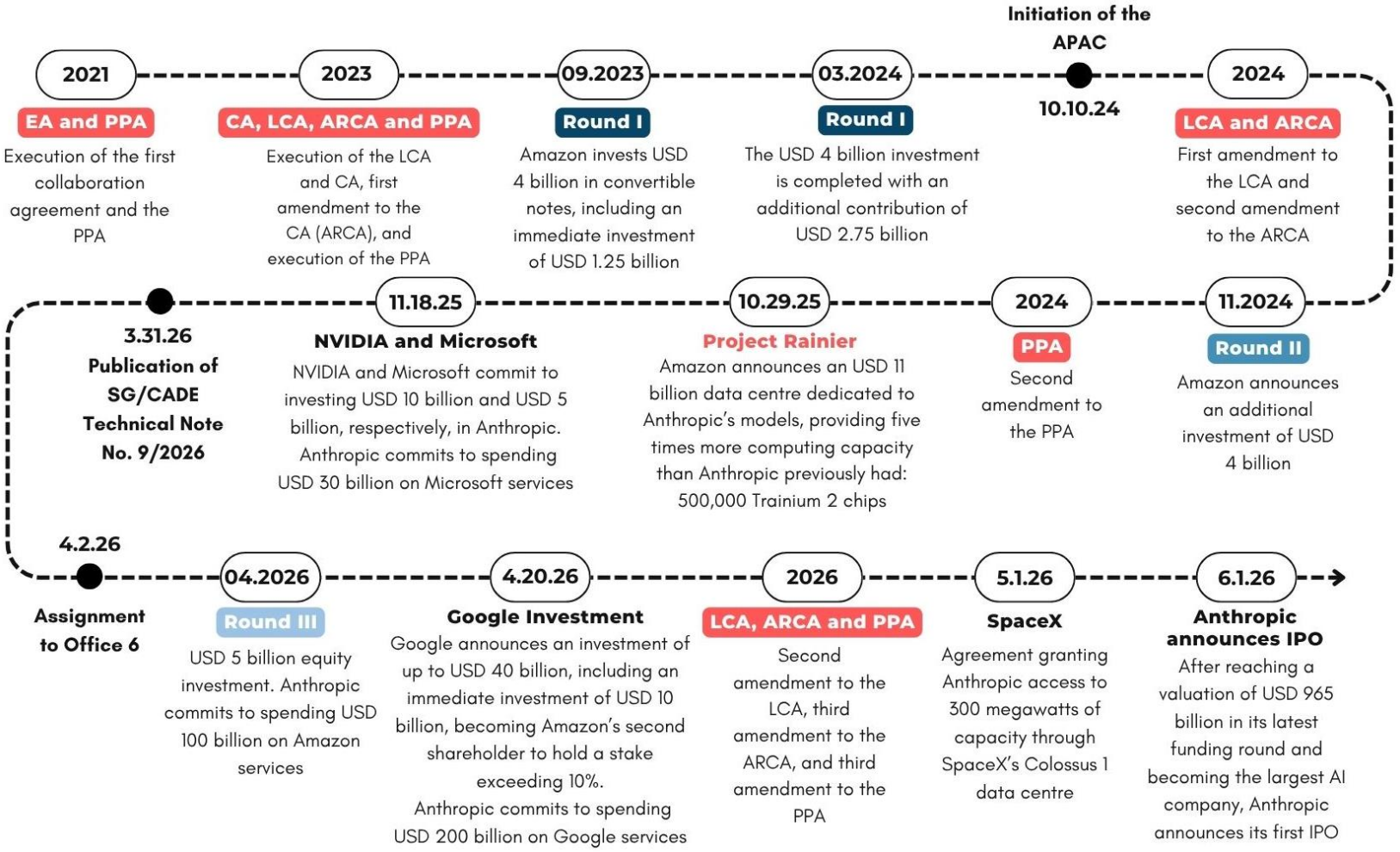
REUTERS. Anthropic revenue run rate tops $65 billion, source says. Reuters, 17 August 2026. Available at: https://www.reuters.com/technology/anthropic-revenue-run-rate-tops-65-billion-source-says-2026-08-17/. Accessed on: 21 Sept. 2026.

91. In parallel with the investments, a series of agreements were concluded establishing cooperation between the represented companies:

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92. It should be noted that the investment transactions and the various collaboration agreements were carried out in a coordinated and continuous manner by the parties **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Their progression can be better visualised in the timeline reproduced below:

Figure 1 – Timeline of investments and agreements relating to Anthropic



Source: Prepared by the Office of Commissioner José Levi Mello do Amaral Júnior

93. I therefore believe that the partnership between Amazon and Anthropic should be analysed holistically, taking into account, on the one hand, the investments, and, on the other, the evolution of the collaboration agreements.

94. Accordingly, I shall now examine (i) the nature of the collaboration and (ii) the turnover of the Represented Parties.

4.1. Legal nature of partnership agreements in the light of CADE Resolution No. 17/2016

95. The prior control provided for in Article 90(IV) of Law No. 12.529/2011 covers economic structures established by contract which, whilst preserving the legal autonomy of the parties and not necessarily involving the creation of a new company, may give rise to concentration through cooperation.[35]

96. In this sense, the partnership agreement occupies an intermediate position between purely commutative relationships, structured by the exchange of reciprocal obligations, and the more institutionalised forms of economic integration, which have a common decision-making structure and, where applicable, their own assets. Subjection to merger control does not, therefore, arise merely from the conclusion of a long-term or cooperative contract, but from the fulfilment of the requirements set out in CADE's regulations.[36]

97. CADE Resolution No. 10/2014 represented the first attempt to define, under Law No. 12.529/2011, the partnership agreements subject to notification. The regulation combined duration with criteria relating to horizontal or vertical cooperation and the sharing of risks and results.

98. Subsequent academic literature and decision-making practice highlighted difficulties in classifying supply, distribution and licensing contracts which, although long-term or economically significant, did not always constitute a joint undertaking or involve the sharing of risks and results. CADE Resolution No. 17/2016 replaced the previous regime with cumulative requirements linked to the economic structure of the contract and the activity that forms its subject matter.

99. The current legislation combines two conditions set out in the main text of Article 2, a duration of two years or more and the establishment of a joint undertaking for the pursuit of an economic activity, with the requirements of items I and II, respectively, the

[35] CAIXETA, Deborah Batista. *Partnership agreements: characteristics and relevance to the competition law of structures*. Master's thesis (Master's in Law), Faculty of Law, University of Brasília, Brasília, 2015, pp. 62–69.

[36] CAIXETA, Deborah Batista. *Partnership agreements: characteristics and relevance to competition law in relation to structures*. Thesis (Master's in Law), Faculty of Law, University of Brasília, Brasília, 2015, pp. 50–55 and 62–73.

sharing of the risks and returns of that activity, and competition between the parties in the relevant market covered by the contract.

100. Item 1 defines an economic activity as the acquisition or supply of goods or services on the market, even if not for profit, provided that the activity could, at least in theory, be carried out by a private company for profit. The model is cumulative: the presence of one element does not compensate for the absence of another.

101. Before examining these elements, it is worth distinguishing between contractual categories that may overlap.[37] A contract is commutative when it organises obligations assigned to opposing parties, each of which is guided by the pursuit of its own interests. It is relational when its duration, incompleteness and need for adaptation require permanent coordination mechanisms. It is cooperative when its performance depends on the coordinated action of the contracting parties.

102. None of these characteristics, taken in isolation, determines a partnership nature. A contract may be long-term, relational and cooperative, and yet retain a commutative structure if assets, decisions, costs, risks and results remain individualised. For competition law purposes, a partnership agreement requires an additional organisational element, consisting of the pursuit of a common economic activity in accordance with Resolution No. 17/2016.

103. Legal doctrine helps to clarify this element, without adding independent requirements to positive law. Caixeta positions partnership agreements as a third way between the market and the firm, and links their structural relevance to stable cooperation, a common scope, and the relative loss of economic autonomy of the parties within the shared activity.[38]

104. Ianelli, drawing on CADE decisions between 2017 and 2022, systematises recurring questions regarding the coordination of activities, interference in decision-making, joint governance structure, joint pricing or marketing, the exchange of sensitive information, cost sharing, accountability, infrastructure, and the joint setting of targets or results.[39] Augustin highlights the need to examine the contractual dynamics, including implicit risks and cost savings. These formulations are interpretative tools and, when they

[37] DIAS, José Carlos Jordão Pinto. The concept of a partnership agreement for the purposes of mergers (Article 90(IV) of Law No. 12,529/2011). Thesis (Doctorate in Law), Faculty of Law, Rio de Janeiro State University, Rio de Janeiro, 2023, in particular pp. 25–39 and 50–52. On the intermediate position and stable cooperation, see also CAIXETA, Deborah Batista. Partnership agreements, op. cit., pp. 62–63.

[38] CAIXETA, Deborah Batista. Partnership agreements, op. cit., in particular pp. 67–73. The concept of relative loss of autonomy is used as a doctrinal indicator of concentration through cooperation and not as an independent requirement added to Article 2 of CADE Resolution No. 17/2016.

[39] IANELLI, Vívian Salomão. On partnership agreements: how does CADE identify the criteria for a joint undertaking and the sharing of risks and results after 2017? IBRAC Journal, no. 2, 2023, pp. 7–30.

put forward proposals for reform or broader criteria, they are not to be confused with the current regulatory framework.[40]

105. In this regard, I shall now analyse the criteria set out in Article 2 of CADE Resolution No. 17/2026, in order to ascertain whether the contractual framework that gave rise to the partnership arrangement between Amazon and Anthropic constitutes a partnership agreement within the meaning of Article 90(IV) of Law No. 12.529/2011.

4.1.1. Duration of two years or more

106. Article 2 of CADE Resolution No. 17/2016 establishes that, for the purposes of Article 90(IV) of Law No. 12,529/2011, contracts with a duration of two years or more that establish a joint undertaking for the pursuit of an economic activity and meet the requirements of items (I) and (II) are considered partnership agreements. The duration acts as an objective filter for stability, designed to exclude short-term relationships from the specific notification regime. Meeting this requirement, however, does not in itself define the partnership nature of the relationship. Supply, licence, distribution, support or capacity contracts may remain in force for several years whilst retaining a commutative structure.

107. Temporal stability is a relevant prerequisite, but not a sufficient one, as long-term contracts are not, solely by virtue of this characteristic, partnership agreements. Legal doctrine, however, does not attribute autonomous partnership significance to the passage of time. According to Caixeta[41], classification also depends on the existence of a common purpose between the parties. Ianelli[42] considers duration to be the most objective criterion in Resolution No. 17/2016 and observes that it is generally not discussed in depth, although the criteria are cumulative. Dias[43] distinguishes partnership agreements from purely relational, hybrid or long-term commutative contracts and concludes, based on CADE case law, that the characterisation of the partnership agreement as a collaboration contract with a common scope prevails.

108. Applying this requirement involves defining the scope of the instrument under examination. EA, PPA, ARCA and LCA contracts form a connected economic relationship, but each has its own subject matter, dates, terms and conditions of termination.

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[40] AUGUSTIN, Bruno Herwig Rocha. CADE's practice, op. cit., particularly pp. 31–42. The author examines the possibility of identifying risks and returns implicit in the economic structure of the contract, including on the expenditure side, without dispensing with the need to demonstrate actual sharing.

[41] CAIXETA, Deborah Batista. *'Partnership agreements'*, op. cit., pp. 69 and 77–79.

[42] IANELLI, Vívian Salomão. On Partnership agreements, op. cit., pp. 9–10

[43] DIAS, José Carlos Jordão Pinto. *The concept of the partnership agreement for the purposes of concentration acts (Article 90(IV) of Law No. 12,529/2011)*. Thesis (Doctorate in Law), Rio de Janeiro State University, Rio de Janeiro, 2023, pp. 23–57 and 318–328.

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109. EA has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and was entered into by **[RESTRICTED ACCESS TO CADE AND AMAZON]**. As the agreement does not specify an end date or a guaranteed minimum duration, its duration must be examined in the light of Article 3 of CADE Resolution No. 17/2016 and the relevant termination clauses. The continued performance of EA has exceeded two years and demonstrates a degree of stability exceeding the regulatory threshold.

110. 2021 PPA came into effect on **[RESTRICTED ACCESS TO CADE AND AMAZON]** and set the contractual period until **[RESTRICTED ACCESS TO CADE AND AMAZON]**. In 2023, 2023 PPA was entered into, which has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and covered the period up to **[RESTRICTED ACCESS TO CADE AND AMAZON]**. 2024 PPA has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and set its expiry date as **[RESTRICTED ACCESS TO CADE AND AMAZON]**. 2026 PPA has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and expires on **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Its contractual term unequivocally exceeds the minimum required duration.

111. CA has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and established an initial term of **[RESTRICTED ACCESS TO CADE AND AMAZON]** years, followed by **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Although it was replaced by 2023 ARCA on **[RESTRICTED ACCESS TO CADE AND AMAZON]**, its legally stipulated duration on the date of entry into force was longer than the regulatory minimum.

112. 2023 ARCA has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and provided for a term of **[RESTRICTED ACCESS TO CADE AND AMAZON]** years, without prejudice to the other termination scenarios set out in the instrument. The contract remained in force until it was superseded by 2024 ARCA on **[RESTRICTED ACCESS TO CADE AND AMAZON]**, which remained applicable until it was superseded by 2026 ARCA on **[RESTRICTED ACCESS TO CADE AND AMAZON]**. 2026 ARCA remains in force until **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The instrument also provides for **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The right to prevent renewal only applies after an initial term of more than two years and does not alter this conclusion.

113. 2023 LCA has been in force since **[RESTRICTED ACCESS TO CADE AND AMAZON]** and established a term of **[RESTRICTED ACCESS TO CADE AND AMAZON]**, taking into account the other contractually provided grounds for

termination. The agreement was replaced by 2024 LCA on **[RESTRICTED ACCESS TO CADE AND AMAZON]**, which set a term of **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

114. The instrument remained in force until it was replaced by 2026 LCA on **[RESTRICTED ACCESS TO CADE AND AMAZON]**, which has an expiry date of **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Once again, the possibility of preventing renewal does not reduce the initial term provided for by law, which exceeds two years.

115. In view of the foregoing, I conclude that all the contracts forming part of the collaboration satisfy the time criterion set out in *the main text* of Article 2 of CADE Resolution No. 17/2016.

4.1.2. Competition between the parties in the relevant market covered by the contract

116. CADE initially issued guidance on this criterion in Consultation No. 08700.006858/2016-78 (Hamburg Süd/Hapag-Lloyd) and, subsequently, in Merger Case No. 08700.002276/2018-84 (TIM/Oi). In APACs No. 08700.005511/2023-37 (LFU) and No. 08700.007461/2023-22 (Libra), the reporting commissioner reiterated that competition in the relevant market covered by the contract is not to be confused with the requirement for horizontal overlap in the technical sense of merger control.

117. The need to relax the notification requirement to also include vertically related operators is even more relevant in the context of digital markets. As argued by Allan Fuezi Barbosa in his doctoral thesis defended at the Largo do São Francisco Law School, digital markets tend to exhibit strong interdependence between vertically related operators through joint undertaking agreements.[44]

118. As outlined by the General Superintendence in Merger Case No. 08700.005792/2026-71 (Microsoft/Inflection), the artificial intelligence sector is rapidly developing, meaning that the contours of the relevant markets are not yet clearly defined. International experience, in turn, provides methodological support for the breakdown of the artificial intelligence chain. Sectoral studies generally distinguish between upstream infrastructure and computational components, the development and training of models, and their distribution or integration into downstream applications. This segmentation does not define the relevant markets applicable in this process, but it offers a useful functional reference.

[44] BARBOSA, Allan Fuezi de Moura. The joint undertaking agreement in Brazil: a competition law approach to the structures. Doctoral thesis. Faculty of Law, University of São Paulo, 2026, p. 294.

119. Based on the AI segments analysed by the General Superintendence in Merger Case No. 08700.004162/2026-89 (Amazon/OpenAI), the Complainants submitted (SEI 1764659) all the markets in which there would be horizontal overlap:

[RESTRICTED ACCESS TO CADE AND AMAZON]

120. The contracts under review cover the parties' activities at different stages of the same supply chain, with Amazon providing infrastructure and *chips* and offering cloud computing services, whilst Anthropic makes its models and applications available. Furthermore, there is a likelihood of reciprocal interference between the different products and services involved in the partnership **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

121. Consequently, there is no doubt regarding compliance with the requirement for competition between the contracting parties, given that, applying the broad interpretation advocated by Commissioner Paulo Burnier da Silveira (SEI 0545523) in Merger Case No. 08700.002276/2018-84 (Tim/Oi), there is no doubt that the parties are competitors in core markets, as well as in those adjacent to the economic activity affected by the cooperation.

122. In view of the foregoing, I consider that the requirement set out in Article 2(II) of CADE Resolution No. 17/2016 has been met.

4.1.3. Joint undertaking

123. Having recognised the functional unity of the instruments and the progressive intensification of the relationship, I shall now examine whether the cooperation between Amazon and Anthropic has established a joint undertaking for the purposes of Article 2 of CADE Resolution No. 17/2016.

124. This requirement presupposes that cooperation goes beyond the mere coordination of services and takes on an organisational structure centred on a common scope or purpose. Governance, joint planning, the allocation of infrastructure, the coordination of supply and influence over business decisions are relevant indicators, but must be examined in terms of their specific remit and concrete effects.

125. In Merger Case No. 08700.002276/2018-84 (TIM/Oi), the Rapporteur's opinion (SEI 0545849), upheld by the Tribunal, emphasised that the name given by the parties to the outcome of the commercial relationship is of little consequence; rather, attention must be paid to the de facto existence of a joint undertaking, verifiable through the finding that the activities of construction, configuration and operation of the assets of the parties involved are carried out in a coordinated manner, whether contractually or not. In his opinion (SEI 0545523), Commissioner Paulo Burnier da Silveira stated that, in order to ascertain the existence of a joint undertaking, the key criterion relates essentially to the

degree of co-operation between the parties, and it is necessary to determine whether the organisational nature of the contract predominates over its relational nature.

126. In Opinion No. 7 (SEI 0904897) in Merger Case No. 08700.006656/2020-11 (Claro/Telefônica), the General Superintendence concluded that unilateral ownership of the network by one of the parties did not preclude classification under the framework, as the contract involved joint decisions on technical and operational solutions, investment and capacity, with implications for the provision of services by both operators. This precedent, however, does not mean that every committee or regular meeting constitutes evidence of a joint undertaking: it is first necessary to determine whether the body merely monitors implementation or decides, by consensus or in a binding manner, on investment, capacity, price, customers, quality or strategy.

127. Decision-making practice also provides negative criteria. In the General Superintendence's opinion (SEI 1063995) in Merger Case No. 08700.002526/2022-62 (Saipem/Technip), the complementary nature of the services provided and the fact that they served the same client were not sufficient, as the structure, personnel, costs, responsibilities and decision-making bodies remained separate.

128. In partnership agreements, the parties' obligations are not directed solely towards the fulfilment of reciprocal obligations, but are coordinated around a common scope, which is legally relevant for determining the rights and duties of each participant[45] . This argument was developed in the opinion of Commissioner Ana Frazão in Merger Case No. 08700.000137/2015-73 (GásLocal/Gasmig), when addressing the common purpose as a distinguishing feature of partnership agreements:

> This is because commutative or exchange contracts are based on the premise that the parties' needs are different. In partnership or plurilateral contracts, however, the parties' needs are the same or very similar, which is why they are brought together around the common purpose which, in turn, requires the parties to act in parallel.[46]

129. This passage does not allow us to conclude that the mere convergence of commercial incentives constitutes a joint undertaking. Both the supplier and the purchaser wish for the relationship to be successful, and an increase in demand for the latter's product may boost the former's revenue. The distinguishing feature lies in the direction of the performances. If each obligation remains geared towards obtaining the corresponding consideration, the synallagmatic nature typical of exchange contracts

[45] CAIXETA, Deborah Batista. *Partnership agreements: characteristics and relevance to the competition law of structures*. Master's thesis (Master's in Law), University of Brasília, Brasília, 2015, pp. 67 and 69. The author associates the joint undertaking agreement with stable and distinctive cooperation.
[46] ADMINISTRATIVE COUNCIL FOR ECONOMIC DEFENCE. Merger Case No. 08700.000137/2015-73, GásLocal and Gasmig, opinion by Commissioner Ana Frazão, SEI Document No. 0079541, Administrative Court for Economic Defence, 24 June 2015. Case law predating Resolution No. 17/2016, cited in relation to the conceptual content of the common purpose.

prevails. If the contributions are organised as means to a subsequent joint activity, the relationship approaches that of a partnership.

130. This distinction requires an examination not only of the stated purpose but also of the organisational content of the relationship. In Opinion No. 19/2019/CGAA3/SGA1/SG/CADE, relating to Merger Case No. 08700.002074/2019-13 (Ambev/Red Bull), the General Superintendence reiterated the guidance set out in the dissenting opinion of Commissioner Paulo Burnier da Silveira in the TIM/Oi case, according to which 'the parameter to be considered in this regard relates, essentially, to the degree of cooperation between the parties to the contract, and it is a matter of determining whether the organisational profile of the contract predominates over its relational profile'.[47] The reference to the degree of cooperation, however, should not be understood as an exclusively quantitative criterion. A relationship may contain numerous coordination obligations and remain commutative if these merely ensure the efficient performance of the parties' respective obligations.

131. What matters, therefore, is also the type of cooperation established. In long-term relational contracts, the incompleteness of obligations and the need to adapt to future circumstances make periodic meetings, the exchange of information, technical assistance, specific investments and the harmonisation of timetables commonplace. These mechanisms seek to manage an ongoing relationship and reduce the risks of free-riding, but do not necessarily transfer to the parties control over the counterparty's core activities or assets.[48]

132. In a joint undertaking, by contrast, the contractual arrangement centres on the economic activity itself to be undertaken. Cooperation ceases to be a means of fulfilling opposing obligations and instead forms the core of the principal obligations. The structure may take the form of joint planning, committees with decision-making powers, coordination of capacity, joint definition of aspects of the offer, or the allocation of human and technological resources to a shared programme. A new company is not required, but there must be an organisational framework that goes beyond the ordinary monitoring of the relationship.

[47] ADMINISTRATIVE COUNCIL FOR ECONOMIC DEFENCE. Merger Case No. 08700.002074/2019-13, Ambev S.A. and Red Bull do Brasil Ltda., Opinion No. 19/2019/CGAA3/SGA1/SG/CADE, SEI Document No. 0661663

[48] GOMES, Orlando. *Contracts*. 26th ed. Rio de Janeiro: Forense, 2007, pp. 99–100. The author includes amongst relational contracts those which, although not having collaboration as their object, require its intensive presence in order to achieve their purposes. See also FORGIONI, Paula A. *Business Contracts: General Theory and Application*. 4th ed. São Paulo: Thomson Reuters Brasil, 2019, pp. 196–197, cited in DIAS, José Carlos Jordão Pinto. *The concept of partnership agreement for the purposes of concentration transactions (Article 90(IV) of Law No. 12.529/2011)*. Thesis (Doctorate in Law), Faculty of Law, Rio de Janeiro State University, Rio de Janeiro, 2023, pp. 28–30.

133. Contemporary business contracts straddle the line between market exchange and corporate integration, with no single indicator capable of determining their classification in advance.[49] The presence of specific investments, governance, technological interdependence or variable remuneration must be assessed collectively, in accordance with the function performed by each mechanism.

134. Typological analysis does not, however, eliminate the need for a legal threshold. Once it has been established that a particular arrangement has a higher degree of cooperation than another, it is still necessary to determine whether this additional element indicates a joint undertaking or merely a more integrated relational contract. Nor is it acceptable for a large number of weak pieces of evidence to substitute for proof of the organisation of the activity. The factual assessment may be gradual, but the legal conclusion as to whether the requirement is met is binary.

135. To this end, the degree of economic dependence does not obviate the need for in-depth examination. Specific investments, switching costs and technological integration may make it costly to replace the counterparty, without conferring upon it the power to participate in the strategic decisions of the dependent party. For the relative loss of autonomy to acquire organisational significance, the dependence must extend to aspects such as research and development, investments, production, capacity, prices or marketing channels. The relationship ceases to be merely relational when one party is no longer able to decide independently on key variables of the activity covered by the cooperation.[50]

136. Similarly, the preservation of legal and asset autonomy does not preclude a joint undertaking. It is characteristic of partnership agreements that the parties remain legally distinct and retain ownership of their assets. The relevant point is economic and decision-making autonomy in relation to the subject matter of the contract. For this reason, I do not consider it sufficient to note that Amazon and Anthropic did not form a new company, did not pool their assets, or kept ownership of the models, chips and other intellectual property rights separate.[51]

137. On the other hand, it would also be incorrect to infer the joint undertaking solely from the specific nature of the assets or the depth of integration. The literature on relational contracts demonstrates that supply, distribution, franchising and long-term

[49] DIAS, José Carlos Jordão Pinto. *The concept of partnership agreement for the purposes of concentration transactions: Article 90(IV) of Law No. 12.529/2011*. Thesis (Doctor of Laws), Rio de Janeiro State University, Rio de Janeiro, 2023, pp. 200 and 291. The author distinguishes between classificatory and organising concepts and rejects the adoption of a rigid system of criminal typology.
[50] BARBOSA, Allan Fuezi de Moura. *The joint undertaking agreement in Brazil*. Thesis (Doctorate in Law), University of São Paulo, São Paulo, 2026, p. 330. The author links the power of control to the ability to determine the business planning of another economic agent, particularly in the areas of research and development, investment, production and sales.
[51] FRAZÃO, Ana. Contractual joint undertakings. Revista de Informação Legislativa, Brasília, vol. 52, no. 207, July–Sept. 2015, pp. 194–195;

licensing may require intense cooperation, dedicated investments and reciprocal technological adaptation. The decisive criterion is not the difficulty of replacing the partner, but the existence of a structure capable of organising the joint economic activity and of limiting, in a legally or economically significant manner, decisions that previously belonged exclusively to each company.[52]

138. In order to systematise the analysis leading to the identification of such a structure, Commissioner Victor Oliveira Fernandes, in his judgement on APAC cases Nos. 08700.005511/2023-37 (LFU) and 08700.007461/2023-22 (Libra), referred to the academic article published by Elisa Funari, Victoria Corradini and Ricardo Botelho[53] in the collection organised by IBRAC on Criteria for the Notification of Mergers, in which the authors identified discussions on the concept of a 'joint undertaking' in at least 50 of the 103 cases of partnership agreements analysed by CADE. In the article, the authors highlighted the main elements used by CADE in defining this concept:

Table 5 – Elements identifying a joint undertaking in CADE case law following Resolution 17/2016

Characterising Category	Definition / Scope of Analysis	Merger Case
Co-ordinated activities / degree of cooperation	An assessment is made as to whether the contract allows for joint coordination (a cooperative structure) and a high degree of interdependence between the parties, including the coordination of commercial strategies, an exclusivity arrangement and joint financial investments.	AC 08700.005953/2018-78 AC 08700.002276/2018-84 AC 08700.006667/2018-66 AC 08700.001841/2022-72 AC 08700.002873/2019-90 AC 08700.002424/2021-66 AC 08700.001177/2024-23 AC 08700.008484/2016-25 AC 08700.006533/2017-76 AC 08700.010707/2024-24
Interference in decision-making	An analysis is carried out to determine whether strategic/key decisions regarding the operation and development of the subject	AC 08700.006858/2016-78 AC 08700.002276/2018-84 AC 08700.002873/2019-90 AC 08700.006656/2020-11

[52] FORGIONI, Paula A. *Business Contracts: General Theory and Application*. 4th ed. São Paulo: Thomson Reuters Brasil, 2019, pp. 196–197, cited in DIAS, José Carlos Jordão Pinto. *The concept of partnership agreement for the purposes of mergers and acquisitions (Article 90(IV) of Law No. 12.529/2011)*. Thesis (Doctorate in Law), Faculty of Law, Rio de Janeiro State University, Rio de Janeiro, 2023, pp. 28–30; WILLIAMSON, Oliver E. Comparative Economic Organisation: The Analysis of Discrete Structural Alternatives. *Administrative Science Quarterly*, vol. 36, no. 2, 1991, pp. 269–296, particularly pp. 270–271. The specific nature of the investments and the need for contractual adaptation may also be present in hybrid relationships which do not, solely on the basis of these characteristics, constitute a joint undertaking.

[53] FUNARI, Elisa; CORRADNI, Victoria and BOTELHO, Ricardo. Partnership Agreements: Evolution of the Concept and Prospects for Refining the Criteria Characterising this Type of Contract. In: GELNK, Ana Bátia; JASPER, Eric and PENEREIRO, Stephanie. Criteria for the Notification of Concentration Transactions. São Paulo: Singular, 2025, pp. 342–344.

	matter of the contract are made in a joint/coordinated manner independently/in isolation.	AC 08700.003382/2021-81 AC 08700.001841/2022-72 AC 08700.007109/2022-14 AC 08700.008322/2022-35 AC 08700.010707/2024-24 AC 08700.008484/2016-25 AC 08700.002529/2017-39 AC 08700.006533/2017-76 AC 08700.001565/2018-66
Establishment/sharing of the corporate and governance structure	An assessment was made as to whether the parties had any joint structure and/or independent entity set up to manage their decisions. Generally, such a structure takes the form of a joint management body (Joint Management Committee) or an SPE.	AC 08700.002276/2018-84 AC 08700.002424/2021-66 AC 08700.006533/2017-76
Access to competitively sensitive information	The characteristics of the contract that would facilitate the exchange of or access to sensitive information, thereby increasing coordination and cooperation between the parties, were analysed.	AC 08700.002873/2019-90 AC 08700.002424/2021-66 AC 08700.006858/2016-78 AC 08700.001177/2024-23 AC 08700.004247/2021-52
Joint marketing	An assessment is made as to whether marketing activities will be carried out jointly or separately.	AC 08700.006858/2016-78 AC 08700.003575/2017-55
Classification of economic activity	It was examined whether the subject matter of the transaction constituted, even in theory, an economic activity within the meaning of CADE Resolution No. 17/16.	AC 08700.008081/2016-86
Joint marketing activities	Analysis based on a single precedent to conclude that a joint undertaking did not exist and to dismiss the case.	AC 08700.003964/2024-18

Simple supply relationship (negative criterion)	In some cases, CADE has ruled out the existence of a joint undertaking on the grounds that it was merely a supply relationship, reinforced by the absence of joint coordination and interference.	AC 08700.002194/2019-11
Contract clauses kept to a minimum	The reasoning behind whether or not the joint undertaking was characterised as such was kept out of the public domain, as it was an explanation based purely on contractual clauses.	AC 08700.007087/2018-06 AC 08700.002074/2019-13 AC 08700.002810/2019-33 AC 08700.006235/2019-48 AC 08700.003211/2020-71 among others

Source: Annex to the rapporteur's opinion in APAC No. 08700.007461/2023-22 (SEI 1706056)

139. I shall therefore proceed to a brief overview of the Applicants' defences and the evolution of the arrangements at the heart of these proceedings over the years, in order to ascertain whether the elements that CADE has repeatedly considered indicative of a joint undertaking are present, in a cumulative and significant manner, in the partnership established between Amazon and Anthropic.

4.1.3.1. The Applicants' Position

140. In summary, the Applicants maintain that the agreements preserve the autonomy of the parties and do not establish a joint undertaking. According to their defence, the Enterprise Agreement, the PPAs, the ARCA, the LCA and the investment agreements each have their own distinct purposes and considerations. Amazon would remain responsible for the infrastructure and cloud services, whilst Anthropic would retain the development, ownership and operation of its models. Nor would there be a joint entity, a pooling of personnel or a committee with the power to direct the companies' activities.

141. The Applicants add that the regular meetings, points of contact, engineering support and technological integration procedures are of an operational nature. These mechanisms would be necessary to integrate artificial intelligence models into a complex computing infrastructure, without giving Amazon the power to decide on Anthropic's scientific planning or, conversely, giving Anthropic the power to determine the overall development of Amazon's chips and services.

142. The defence's argument is supported by the fact that technical coordination is not necessarily to be confused with corporate governance. Adapting software to specific hardware requires the exchange of specifications, testing, communication between engineers and release planning. Such activities may merely constitute the fulfilment of

support and interoperability obligations. Their relevance depends on whether the coordination is limited to the interfaces between autonomously developed assets or whether it extends to decisions regarding the design, investment, capacity and economic exploitation of those assets.

143. I do not, however, accept the premise that the absence of a formal committee or a joint body brings the analysis to a close. Organisation may result from rights of consultation, consent, coordination or escalation distributed amongst various instruments. It may also arise from the substantive interdependence of decisions which, when considered in isolation, appear to remain the responsibility of each party. The conclusion requires an examination of the scope and effects of each mechanism, and not merely the designation assigned by the contracting parties.

144. The decisive question can thus be formulated as follows: do infrastructure, models, technology, distribution and support constitute distinct services exchanged between autonomous undertakings, or organised contributions aimed at carrying out a common economic activity? The answer does not stem from the label ‘strategic partnership’, the complexity of the contractual package or the assertion of non-exclusivity. It depends on the economic function of the obligations and the actual development of the relationship.

4.1.3.2. Evolution of the contractual arrangement

145. The analysis must be longitudinal because the content of the instruments has not remained static. Legal doctrine recognises that long-term business contracts may be metamorphic in nature: a relationship that is initially commutative may incorporate mechanisms of cooperation that alter its economic function. It is not enough, however, to identify an increase in scale or complexity. The relevant change is one that alters the nature of the cooperation, transforming instrumental obligations into the organisation of joint activity.

146. The documents indicate three patterns of progressive complexity. **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

147. This progression is significant, but should not be treated as a presumption of partnership transformation. A quantitative increase in volumes, deadlines and obligations may deepen economic dependence without altering the nature of the services provided. On the other hand, an amendment could introduce new governance mechanisms, new factors of production or previously non-existent economic activity and, as a result, materially alter the classification of the relationship. The assessment must therefore focus on qualitative changes in scope and organisation.

(i) Contractual structure of 2023

148. **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

149. From a technological perspective, Anthropic undertook obligations regarding **[RESTRICTED ACCESS TO CADE AND AMAZON]**. These provisions reveal ongoing cooperation and the adaptation of assets. However, the existence of these obligations can still be explained by the need to facilitate the licensing and distribution of technology on third-party infrastructure.

150. The most relevant issue is whether the 2023 arrangement conferred shared control on the parties over the models, the infrastructure or the offering. The available evidence indicates that Anthropic remained responsible for **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The obligations coordinated the interface between complementary assets, but do not, in themselves, demonstrate joint planning of the respective *roadmaps*.

151. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Nevertheless, a channel restriction does not, in itself, amount to the organisation of a joint undertaking, particularly when the decision regarding the development of the model and its direct marketing remains with the licensor.

152. In conclusion, the 2023 arrangement goes beyond a one-off purchase of capacity and exhibits the characteristics of a relational contract. There is stability, technological integration, as well as a degree of coordination and interconnection. The cooperation appears, however, to be predominantly aimed at enabling each company to fulfil its obligations within the vertical arrangement.

(ii) 2024 contractual arrangement

153. The 2024 version deepens the relationship in four dimensions. Firstly, it expands the capacity commitments and the use of Trainium. Secondly, it links technological performance, discounts and remuneration more precisely. Thirdly, it establishes dedicated support and a more intensive flow of information. Fourthly, it strengthens the link between the investment, collaboration, licensing and infrastructure agreements. These changes are not limited to an increase in the contracted volume, as they relate to the manner in which the relationship is developed and executed.

154. In the 2024 LCA, Anthropic assumed the obligation of **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The agreement also set out performance metrics and provided for **[RESTRICTED ACCESS TO CADE AND AMAZON]**. These elements indicate a stable allocation of human and technological resources to the relationship, which increases its organisational density.

155. Infrastructure also gained greater significance. The 2024 documents expanded commitments relating to Trainium, Bedrock and multi-year capacity. This development led to specific investments and greater interdependence between the development of

Anthropic's models and the infrastructure provided by Amazon. However, the contracting of dedicated capacity does not, in the absence of other factors, mean that the parties began to decide jointly how, where and when Amazon's general infrastructure would be developed and operated.

156. This distinction is important because specific investments and switching costs are common features of hybrid contracts. These investments explain the long duration, the need for safeguards and the more intensive technical coordination. They only acquire partnership significance when the specificity of the assets is combined with a structure that deprives the parties of the ability to decide independently on their use or development. In the contracts under analysis, Amazon remains the owner and operator **[RESTRICTED ACCESS TO CADE AND AMAZON]** and Anthropic, **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

157. The 2024 arrangement therefore represents a higher degree of integration. **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

(iii) 2026 contractual arrangement

158. The 2026 version constitutes the most significant change to the joint undertaking requirement. The subject matter of the contract now covers **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The cooperation thus extends to infrastructure, execution architecture, distribution and commercial terms.

159. The introduction of **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This mechanism reduces the operational separation between Anthropic's own channel and the AWS infrastructure or channels.

160. **[RESTRICTED ACCESS TO CADE AND AMAZON]** adds an even more significant element. According to the summary of the documentation, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The fulfilment of certain objectives is also linked to economic consequences set out in the agreement. **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

161. The 2026 version also establishes more detailed rules for interface changes. Anthropic must **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This coordination reduces the risk of failure and protects integration investments. At the same time, it grants AWS **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The organisational aspect will depend on the existence of consent or veto powers, rather than on an obligation to inform or discuss changes.

162. In the 2026 LCA, **[RESTRICTED ACCESS TO CADE AND AMAZON]** expands architectural integration. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The obligation is no longer limited to the provision of a model for hosting. It covers **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

163. Furthermore, the mechanisms for **[RESTRICTED ACCESS TO CADE AND AMAZON]** intensify Amazon's access to Anthropic's materials and knowledge. Under certain conditions, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Whilst these safeguards formally preserve Anthropic's ownership, the interaction could result in the integration of tacit knowledge and technological coordination exceeding that observed in previous versions.

164. The same ambivalence is evident in the commercial dimension. The 2026 ARCA establishes **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

165. In summary, the 2026 version cannot be adequately described as a mere quantitative expansion of the previous relationship. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Nevertheless, the strength of the link does not automatically equate to a joint undertaking. It is necessary to examine whether the new mechanisms meet the criteria established by CADE's doctrine and case law regarding the characterisation of a joint undertaking, or whether they merely constitute restrictions and coordination obligations typical of a highly integrated relational contract.

4.1.3.3. Coordinated activities and degree of cooperation

166. The contractual framework establishes stable and progressively more intense cooperation. The decisive point, however, is whether this coordination extends to the core factors and decisions of the activity or remains focused on the performance of bilateral obligations.

167. In the 2023 ARCA, **[RESTRICTED ACCESS TO CADE AND AMAZON].**

168. In 2026, the integration was expanded **[RESTRICTED ACCESS TO CADE AND AMAZON]**

169. In the 2023 LCA **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

170. In 2024, cooperation became more stable with the dedicated team:

[RESTRICTED ACCESS TO CADE AND AMAZON]

[RESTRICTED ACCESS TO CADE AND AMAZON].

171. The Defendants maintain (SEI 1792762) that **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The specific allocation of staff constitutes evidence of a functional organisation, but, under these conditions, it is closer to qualified technical support than to a standard team.

172. Access to **[RESTRICTED ACCESS TO CADE AND AMAZON]**. In the absence of a joint decision and joint ownership, the mechanism constitutes technical support for integration, not shared development.

173. **[RESTRICTED ACCESS TO CADE AND AMAZON]**

174. The PPA adds coordination regarding capacity planning:

[RESTRICTED ACCESS TO CADE AND AMAZON]

175. There is coordinated planning, but its express purpose is **[RESTRICTED ACCESS TO CADE AND AMAZON]**, without granting the parties joint decision-making powers over Amazon's infrastructure.

176. **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

177. The Represented Party itself acknowledges (SEI 1792762) that Project Rainier **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This information demonstrates specificity, but allows for two interpretations: it may indicate the allocation of infrastructure to the complex or an investment by the supplier backed by a firm order.

178. The scale of the commitments reinforces the interdependence, without in itself altering its nature. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The scale is relevant, but does not prove shared management of capacity.

179. It is evident that the scale, specificity and integration of the arrangement under examination contain elements indicating that it goes beyond a mere ordinary supply relationship. However, the clauses of the contracts do not demonstrate a joint decision regarding infrastructure, models or supply. I therefore conclude that there was qualified cooperation and a growing convergence towards a partnership-like arrangement, but no joint organisation of the activity.

4.1.3.4. Interference in decision-making

180. Interference constitutes a relevant indication of a joint undertaking when it extends to core decisions regarding the activity, such as price, product, capacity, launch, customers or technological planning. In the contractual framework, however, the identified approval rights generally relate to the assets and services specific to each party.

181. Under the ARCA, Anthropic remains responsible **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

182. There are certain defined approval powers. In 2023, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. In 2026, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. These powers protect, respectively, Anthropic's models and Amazon's platform; however, they do not confer general interference over the other party's strategy.

183. The LCA maintains a similar separation. Amazon receives **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

184. As regards infrastructure, it is understood that a certain degree of coordination is necessary for the construction of *data centres* such as those in the Rainier Project. **[RESTRICTED ACCESS TO CADE AND AMAZON]**

185. This separation brings the arrangement closer to precedents in which cooperation preserved the parties' autonomy over key aspects of their activities. In Merger Case No. 08700.002529/2017-39 (TAM/Qatar), decisions on fares, timetables, services and commercial strategies, as well as performance costs and expenses, remained separate. In Merger Case No. 08700.002526/2022-62 (Saipem/Technip), the parties retained exclusive control over their resources, assets, personnel, costs and liabilities, without any joint structure or governance.

186. I therefore conclude that the approval and coordination mechanisms did not shift central decision-making to the joint sphere. Anthropic retained control over its models and commercial terms, whilst Amazon remained responsible for its infrastructure, platform and products. The criterion of interference thus rules out the existence of a joint undertaking.

4.1.3.5. Establishment and sharing of corporate structure and governance

187. Amazon's investments in Anthropic did not create shared corporate governance. According to the Defendant (SEI 1764659), **[RESTRICTED ACCESS TO CADE AND AMAZON]**. These elements rule out joint control of Anthropic, although they do not, in isolation, resolve the possible existence of a contractual undertaking.

188. At the contractual level, the LCA provides that each party shall appoint **[RESTRICTED ACCESS TO CADE AND AMAZON]**

[RESTRICTED ACCESS TO CADE AND AMAZON]

189. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This clause confirms the coordinating role, but does not confer voting rights, a budget, authority over teams or decision-making power.

190. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This is a mechanism for relationship management and conflict resolution, not a governing body.

191. Conversely, the elements examined indicate that the parties have maintained predominantly separate decision-making structures, assets, responsibilities and commercial strategies. The LCA stipulates:

[RESTRICTED ACCESS TO CADE AND AMAZON]

192. Case law confirms that relationship-building mechanisms are insufficient without authority over the activity. In Consultation No. 08700.001177/2024-23 (Cassol/Todimo), the establishment of a joint Procurement Committee to negotiate commercial terms with

common suppliers was not considered sufficient to constitute a joint undertaking, as the parties retained autonomy over pricing, marketing, sales and strategy in the retail market. In Merger Case No. 08700.002526/2022-62 (Saipem/Technip), the absence of a shared structure, personnel and governance, as well as the retention of exclusive control over resources, assets, costs and liabilities, formed the basis for the negative conclusion regarding the joint undertaking.

193. I conclude that the presence of **[RESTRICTED ACCESS TO CADE AND AMAZON]** establishes governance of the contractual relationship, not governance of the joint undertaking. The absence of a corporate structure would not be decisive in isolation, but, combined with the lack of a functional body with decision-making powers, it precludes the existence of a joint organisation of the economic activity.

4.1.3.6. Access to competitively sensitive information

194. Access to or the exchange of competitively sensitive information is one of the characteristics considered in CADE decisions when assessing a joint undertaking, but it must be analysed in conjunction with the other elements of the contract. Its significance depends on the content shared, the purpose of the access and the applicable safeguards. Augustin and Ianelli treat the flow of information as an indication of integration, particularly when it relates to commercial or strategic decisions, rather than merely data necessary for the performance of the contract.[54]

195. In 2023, the LCA required Anthropic to **[RESTRICTED ACCESS TO CADE AND AMAZON]**

196. The ARCA also allowed Anthropic **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Furthermore, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Whilst this data may have competitive value, access was linked to technical preparation and the tender **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

197. In 2024, the exchange was expanded **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The purpose limitation reduces the weight of this access as evidence of joint management.

198. In 2026, the integration **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

199. The Respondent states (SEI 1764659) that **[RESTRICTED ACCESS TO CADE AND AMAZON]**. It also reports the existence of **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

200. This case differs from Merger Case No. 08700.002424/2021-66 (Serasa/SPC/CNDL), in which competitors ensured reciprocal, query-by-query access to

[54] AUGUSTIN, Bruno Herwig Rocha. The Practice of CADE, op. cit., p. 37; IANELLI, Vívian Salomão. On Partnership agreements, op. cit., pp. 20–22.

the information contained in their credit databases, whilst preserving the independence of those databases and the autonomy of the assessment formulas. It is similar to Merger Case No. 08700.002529/2017-39 (TAM/Qatar), in which the absence of interference regarding fares, timetables, services and commercial strategies, as well as the absence of an exchange of competitively sensitive information, helped to rule out the existence of a joint undertaking.

201. I conclude that the flow of information reinforces technical integration but does not demonstrate a common organisation. No general flows of information capable of demonstrating interference with the parties' autonomous competitive strategy were identified. The information examined relates predominantly to interoperability, capacity, safety and the implementation of licences.

4.1.3.7. Joint marketing

202. Joint pricing or marketing may indicate a joint undertaking by revealing greater coordination regarding the product or service and may also be relevant to the sharing of results, depending on how revenues are allocated. In this regard, Ianelli and Augustin distinguish between a joint offering and simple platform intermediation.[55]

203. In 2023, **[RESTRICTED ACCESS TO CADE AND AMAZON].**

204. The joint use of the channel also extends to models developed for specific users:

[RESTRICTED ACCESS TO CADE AND AMAZON]

205. The cooperation integrates product and platform, but does not transfer to Amazon the decision regarding the development of the model, nor does it create joint negotiation of its terms.

206. In 2026, the commercial integration was expanded by the service **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The naming and technical integration bring the parties' commercial presentations closer together, but Anthropic's services remain distinct from the channel provided by Amazon.

207. No common pricing, joint sales targets, collective bargaining, shared portfolio management or joint liability towards users were identified. Nor is there any centralisation of commercial decisions relating to the Claude models and Amazon's own models. The existence of the same digital catalogue, therefore, does not automatically transform separately priced products into a single business offering.

208. I conclude that Amazon Bedrock constitutes an integrated distribution and monetisation channel, but not a common vehicle for commercial decision-making. The separation of prices, products and responsibilities precludes joint marketing in the

[55] IANELLI, Vívian Salomão. On Partnership agreements, op. cit., pp. 20–26; AUGUSTIN, Bruno Herwig Rocha. The Practice of CADE, op. cit., pp. 40–41.

partnership sense, although the integration of the channel progressively brings the arrangement closer to this configuration.

4.1.3.8. Establishment of an economic activity

209. The requirement for economic activity does not present any difficulty in itself. The instruments regulate the supply and acquisition of economically exploitable goods and services, including computing capacity, technology licensing, training, inference, customisation, integration and distribution of artificial intelligence models. The controversy lies in the common nature of this activity, rather than in its economic nature.[56]

210. In 2026, the activity consists of **[RESTRICTED ACCESS TO CADE AND AMAZON].** The structure assigns the provision of the infrastructure to Amazon and its acquisition and use to Anthropic, without demonstrating joint exploitation of the capacity.

211. In 2024, Anthropic **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

212. In the ARCA, the activity consists of **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

213. From 2026, ARCA will extend to cover **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Whilst this development brings infrastructure, models and distribution closer together, the clause expressly distinguishes **[RESTRICTED ACCESS TO CADE AND AMAZON].**

214. Taken together, these instruments form an integrated chain, in which Amazon provides capacity and a platform, Anthropic develops and licences models, and Amazon utilises the licensed technology and operates the distribution channel. This complementarity demonstrates economic activity and functional unity, but does not override the separate allocation of assets, decisions and responsibilities.

215. I conclude that there is the carrying out of an economic activity, but it has not been demonstrated that this is carried out jointly. The complex integrates individual activities through functionally related contracts, without constituting an autonomous centre of production, licensing or marketing.

4.1.3.9. Partial conclusion

216. The analysis reveals elements that bring the arrangement closer to the concept of a joint undertaking: functional unity amongst the entities, a multi-year duration, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. These factors demonstrate stable cooperation and growing interdependence.

[56] IANELLI, Vívian Salomão. On Partnership agreements, op. cit., pp. 20–23; DIAS, José Carlos Jordão Pinto. The Concept of Partnership Agreement, op. cit., pp. 188–191.

217. Conversely, no joint decision-making body, shared budget or accounts, joint team, co-ownership of assets, joint pricing, common commercial targets or joint liability towards customers were identified. Anthropic remained responsible for **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

218. Project Rainier is the main source of ambivalence. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. However, there was no evidence of shared management of this or other infrastructure.

219. The number and intensity of the links do not substitute for the partnership nature of the organisation. The intensity of cooperation or interdependence is not, on its own, sufficient to characterise a joint undertaking. According to Caixeta, the distinguishing feature is stable cooperation guided by a common purpose, resulting in a relative loss of economic autonomy within the scope of the shared activity.[57]

220. Developments between 2023 and 2026 intensified integration, primarily through capacity expansion and technical adaptations **[RESTRICTED ACCESS TO CADE AND AMAZON].** There was, however, no qualitative change in the allocation of decision-making powers. In all versions, assets, personnel, products and responsibilities remained predominantly separate.

221. I therefore consider that **a joint undertaking for the pursuit of economic activity** did **not materialise**, although the arrangement progressively approximated this concept. The arrangement as a whole is more appropriately characterised as a functionally integrated network of bilateral contracts, involving qualified cooperation between companies that (still) maintain autonomous centres of decision-making, assets, responsibilities and commercial strategies.

4.1.4. Sharing of risks and results

222. Article 2(I) of CADE Resolution No. 17/2016 requires the sharing of risks and results arising from the economic activity that constitutes the subject matter of the contract. The two elements are cumulative within the provision itself: the demonstration of shared risk does not dispense with the need to prove shared results, just as participation in a particular revenue stream or saving does not compensate for the absence of exposure to the corresponding loss. Furthermore, risk and returns must be linked to the same economic activity. It is not possible to combine risk arising from the provision of capacity with variable remuneration provided for in a distribution instrument without demonstrating the economic link between the contingency borne and the corresponding benefit.

[57] CAIXETA, Deborah Batista. *Partnership agreements: characteristics and relevance to competition law in relation to structures*. Dissertation (Master's in Law), Faculty of Law, University of Brasília, Brasília, 2015, pp. 62–79

223. As previously outlined, the contractual framework enables the integration, use and distribution of Anthropic's models and services within the AWS environment, supported by the infrastructure and computing capacity provided by AWS. Although the instruments are functionally connected, each retains its own purpose: **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This connection justifies a joint examination of the contracts, but is not sufficient to characterise a single economic activity or the sharing of its risks and results.

224. Firstly, I shall identify the negative contingency and ascertain who bears the residual loss after taking into account minimum commitments, prices, guarantees, indemnities, credits, discounts, adjustments and possibilities for reallocation. Secondly, I shall examine who appropriates the revenue, margin or savings generated, after costs, deductions, royalties, commissions and other financial flows. The requirement will only be met if the negative exposure and the positive appropriation relate to the same activity and affect both parties. Simultaneous losses, correlated revenues or parallel benefits are not sufficient without this economic identity.

225. In order to structure this analysis, I shall distinguish between similar situations without turning them into independent legal requirements. On the one hand, there are risks inherent to the provision of services, risks of default, economically correlated contingencies, allocated or transferred risks, and effectively shared risks. On the other hand, there are contractual considerations, own revenues, reciprocal benefits, individually appropriated savings, variable remuneration and effectively shared results. Two parties may suffer losses from the same event and yet bear distinct contingencies. They may also simultaneously increase their revenues without sharing the same margin. The decisive factor is the economic structure that remains after the contract has been fully implemented.

226. Merger Case No. 08700.002276/2018-84 (TIM/Oi) provides a relevant benchmark for recognising the implicit sharing of risks and results on the expenditure side. The operators coordinated their expansion strategy, defined capacity and shared infrastructure that formed the core of both companies' activities. According to the rapporteur commissioner's opinion (SEI 0545849), this organisation prevented redundant expansion, shared costs and increased the margins of both companies, thereby allowing for the recognition of implicit risks and returns on the expenditure side. The judgement itself, however, limited the scope of this conclusion:

> On the understanding that (i) the sharing of assets and (ii) the joint decision-making between the parties on variables affecting supply in the relevant market in which they compete characterise a joint undertaking and the sharing of risks and results, and that, therefore, they constitute a partnership agreement for the purposes of applying Law 12.529/2011. (SEI 0545849)

227. From this precedent, I infer that the rationale for the decision does not lie in the reciprocal use of an asset, but in the joint organisation of its expansion and the bilateral appropriation of the efficiencies generated.

228. In Merger Case No. 08700.006656/2020-11 (Claro/Telefônica), the General Superintendence considered that the unilateral transfer of the network did not preclude the sharing of risks and results, as the contractual annexes bound the transferor and transferee to the technical, operational and commercial risks and results of the roll-out, with possible repercussions on revenues.

229. In precedents relating to Vessel Sharing Agreements, particularly Consultation No. 08700.008081/2016-86 and Merger Case No. 08700.001606/2017-33, CADE considered the joint definition of frequency, ports, terminals, the number and capacity of vessels, the predetermined allocation of space, and the mechanisms for offsetting costs associated with the redistribution of capacity to be relevant.

230. The application of these parameters must take account of changes to the instruments. In 2023, the set comprised **[RESTRICTED ACCESS TO CADE AND AMAZON]**. In 2024, they were expanded **[RESTRICTED ACCESS TO CADE AND AMAZON]**. In 2026, the following emerged **[RESTRICTED ACCESS TO CADE AND AMAZON]**. I shall examine each version according to the content in force at the time, without projecting subsequent mechanisms onto earlier instruments. I shall begin by addressing the risks and benefits related to capacity, commitments, performance, technology, **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

231. In the 2023 configuration **[RESTRICTED ACCESS TO CADE AND AMAZON]**. A partnership interpretation highlights that the performance of the models determined infrastructure consumption and, consequently, part of the return expected by AWS. The commutative explanation, however, remains consistent: Anthropic acquired capacity and access to the channel, whilst Amazon/AWS received **[RESTRICTED ACCESS TO CADE AND AMAZON]**. In this version, no formula can be identified that subjects both to the same residual loss and the same economic advantage.

232. In 2024, the relationship took on a greater scale and specificity. **[RESTRICTED ACCESS TO CADE AND AMAZON]**, whilst Project Rainier brought to fruition infrastructure built by AWS to meet the demand presented by Anthropic. These elements support the argument that parallel investments and dedicated resources began to produce mutual dependence and economies of scale related to the same technological programme. On the other hand, **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The 2024 version intensified the relationship, but does not, in itself, reveal a qualitative change in the structure of risks and outcomes.

233. The 2026 configuration presents indications that may be interpreted as more pronounced. The PPA now covers **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The ARCA and LCA incorporated **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Furthermore, the potential availability of additional funding was linked to capacity milestones. This architecture brings infrastructure, technology, distribution and capital closer together. However, this integration does not allow us to assume that the disadvantages and advantages have been balanced out. It is necessary to determine whether each mechanism alters economic appropriation or merely expands

upon commitments, prices, discounts and enforcement rights already recognised in supply, licence and distribution contracts.

234. Investment in infrastructure and spare capacity form the first core area of integrated analysis. The argument in favour of sharing highlights that AWS scales high-value assets according to the demand projected by Anthropic, whilst Anthropic structures its training and inference based on the capacity promised. Better utilisation of the infrastructure could thus reduce unit costs for Anthropic, improve the return on AWS's assets and produce efficiency gains similar, in economic terms, to those examined in Merger Case No. 08700.002276/2018-84 (TIM/Oi). This interpretation depends, however, on two distinct assessments to determine who bears the loss arising from unused capacity and who reaps the savings achieved through the more efficient use of the asset. The mere simultaneous generation of benefits does not demonstrate that they are shared.

235. The counter-argument stems from the structure of ownership, remuneration and risk mitigation. AWS retains **[RESTRICTED ACCESS TO CADE AND AMAZON]**, whilst Anthropic assumes obligations **[RESTRICTED ACCESS TO CADE AND AMAZON]**

236. Consumption commitments and discounts must therefore be examined as parts of the same economic mechanism. Under the partnership interpretation, the commitment enables AWS to plan investments, reduce the average cost of capacity and ensure scale for the development of Trainium chips. Anthropic, in turn, receives availability, predictability and more favourable economic terms.

237. Under the commutative interpretation, each effect remains distinct. Whilst AWS receives a fixed price and demand predictability, Anthropic receives a discount and capacity. The classification depends on whether AWS's remuneration varies according to the commercial success of Anthropic's products or solely according to the volume consumed, whether Anthropic shares in the revenue from the infrastructure, and whether either party shares in the margin or the savings realised by the other. Revenue determined by volume does not, without additional factors, amount to a common result.

238. Nor do the mechanisms applicable to delays, shortfalls and capacity performance allow for automatic classification. Any failure on the part of AWS may delay **[RESTRICTED ACCESS TO CADE AND AMAZON]**. According to the statement by the Defendants (SEI 1764659), the PPA provides for **[RESTRICTED ACCESS TO CADE AND AMAZON]**. These mechanisms have economic repercussions for both parties, but can only attribute to AWS the consequences of its own failure to deliver and restore Anthropic's contractual position. For there to be a sharing of risks, it would be necessary for the parties to jointly absorb the loss and the benefit arising from the same contingency, rather than for one party to indemnify or compensate the other for the breach, which has not been demonstrated.

239. The related technological risk **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

240. However, Anthropic retains, **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

241. **[RESTRICTED ACCESS TO CADE AND AMAZON]** Efficiency will only be shared if it stems from bilateral contribution and there is a rule of shared appropriation, without the absence of a joint cash pool being, in itself, decisive.

242. **[RESTRICTED ACCESS TO CADE AND AMAZON]** The connection creates cross-incentives; however, the available evidence does not yet demonstrate that it results in a shared loss or a jointly appropriated advantage.

243. I shall now examine the financial flows and economic benefits provided for in the instruments. **[RESTRICTED ACCESS TO CADE AND AMAZON]**. To distinguish between them, it is important to identify the payer, the beneficiary, the basis of calculation, deductions, minimums, ceilings, the determining variable and the costs taken into account. It is also relevant to know whether one party retains its remuneration whilst the other incurs a loss. This circumstance constitutes an indication of individual appropriation, although it is not, in itself, conclusive.

244. Under the PPA, AWS receives **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The partnership interpretation holds that multi-year planning makes it possible to reduce unit costs, increase asset utilisation and generate efficiencies for both parties.

245. The counter-argument is that each party derives a distinct advantage: AWS receives pricing and demand predictability, whilst Anthropic receives capacity and a discount. To recognise a shared outcome, it would be necessary to demonstrate that Anthropic shares in the revenue or margin from the infrastructure, that AWS shares in the savings achieved by Anthropic, or that the remuneration varies according to Claude's economic performance, and not merely according to consumption.

246. The distribution via Amazon Bedrock offers the closest approximation to a revenue-correlated outcome. AWS provides **[RESTRICTED ACCESS TO CADE AND AMAZON]**. This correlation does not necessarily imply a share in the same margin.

247. The categorisation of **[RESTRICTED ACCESS TO CADE AND AMAZON]** must be examined. No common targets, promotional budget, sharing of commercial costs or joint price negotiation were identified.

248. **[RESTRICTED ACCESS TO CADE AND AMAZON]** require a similar analysis. Remuneration linked to Amazon's use of Anthropic's models or technologies may accompany the exploitation of products and services incorporating Claude. Nevertheless, variation according to use, volume, product or number of users may merely constitute a method of licence pricing.

249. To characterise this as a shared profit arrangement, it would be necessary to demonstrate that Anthropic shares in the revenue or final margin of Amazon's products, or that Amazon shares in the profit from Anthropic's products beyond the remuneration for infrastructure and distribution. If the payment is made regardless of the profitability of the licensed product, the structure resembles a commutative royalty rather than a share in business profits.

250. The same caution applies to **[RESTRICTED ACCESS TO CADE AND AMAZON]**. The word 'share' suggests a division, but does not clarify what is being divided. It is necessary to verify whether the percentage is calculated on gross revenue, net revenue after deductions, the price charged to the user, avoided costs or residual margin. It must also be identified which service is being remunerated and whether the formula incorporates costs or losses from both. As each revenue stream remunerates the model, capacity, inference, platform or channel separately, there will be economically linked payments, but no common result.

251. The adoption of **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

252. The valuation of Amazon's stake in Anthropic and the strategic benefits of the relationship should not, however, replace the contractual analysis. Claude's success may increase the value of the shares or notes held by Amazon, attract customers to Bedrock, benefit Trainium and strengthen AWS's position as **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

253. Anthropic, for its part, gains capital, capacity, reputational association and access to customers. These benefits align incentives but remain, in principle, individually attributable. The increase in corporate value remunerates the minority investment, whilst reputation and customer expansion constitute commercial advantages. To classify them as a joint result, a rule would be required linking their production and appropriation to the same contractual activity.

254. The cumulative test prevents the aggregation of risks and outcomes belonging to distinct business units simply because the instruments form a functional unit. One cannot simply add together **[RESTRICTED ACCESS TO CADE AND AMAZON]**. Nor is it sufficient to combine **[RESTRICTED ACCESS TO CADE AND AMAZON]** with the valuation of Amazon's shareholding.

255. **[RESTRICTED ACCESS TO CADE AND AMAZON]** may link capital and capacity, but this connection will only constitute sharing if the failure to meet or the fulfilment of milestones results in common losses and benefits, rather than independent consequences for financing and supply.

256. In Merger Case No. 08700.002526/2022-62 (Saipem/Technip), Opinion No. 210 of the General Superintendence (SEI 1063995) emphasised that risks and results must be cumulatively present and linked to the economic activity covered by the contract. From this criterion, I conclude that, in the absence of a demonstrated link to a common

economic activity, the individualisation of costs, liabilities and remuneration constitutes an element contrary to the characterisation of the partnership contract.

257. I acknowledge that the contractual arrangement gives rise to a certain degree of interdependence, specific investments, reciprocal benefits, aligned incentives and economically correlated results. I also acknowledge that the sharing of risks may be implicit, manifesting itself on the expenditure side and not requiring a formal accounting division of profits. The available evidence, however, remains consistent with allocated risks and separate consideration: **[RESTRICTED ACCESS TO CADE AND AMAZON]**.

258. I cannot identify any clause, remuneration formula, practice or organisational mechanism sufficient to demonstrate that Amazon/AWS and Anthropic jointly bear and appropriate the risks of the same economic activity. The absence of a cumulative demonstration of risks and results constitutes an independent ground contrary to the characterisation of the partnership agreement under Article 2(I) of CADE Resolution No. 17/2016.

4.1.5. Conclusion on the nature of the collaboration

259. In light of the contractual framework examined, I consider that the collaboration established between Amazon and Anthropic does not constitute a joint undertaking within the meaning of CADE Resolution No. 17/2016. Although the agreements establish significant commercial ties and a long-term relationship between the parties, their provisions do not reveal the existence of a joint undertaking or the sharing of risks and results arising from the economic activity covered by the contract, in accordance with the criteria established in this Council's case law.

260. This conclusion stems exclusively from the structure and clauses of the contracts submitted for analysis in this APAC. It is not, therefore, an abstract recognition that agreements between computing infrastructure providers and developers of artificial intelligence models are incapable of constituting joint undertaking agreements, but rather a finding that the elements necessary for such a classification are not present in the instruments under examination.

261. International experience shows that relationships of this nature can take different forms and be addressed through equally diverse means, including the regulation of structures, the enforcement of conduct and sector-specific regulation. In a market still undergoing rapid development, changes to corporate rights, commercial commitments, conditions of access to infrastructure, governance mechanisms or the degree of interdependence between the parties may alter the economic nature of the collaboration and warrant a fresh assessment by the competition authority.

262. For this reason, this decision is limited to the facts and contractual instruments contained in this case file and does not bind CADE as regards the assessment of future changes in the relationship between the parties. Nor does it preclude the possibility of

scrutinising any conduct under Law No. 12.529/2011, should the evolution of the agreements or the market reveal practices or effects that are potentially harmful to competition.

4.2. Analysis of gross turnover

263. With regard to the turnover criterion, Article 88 of Law No. 12,529/2011, read in conjunction with Interministerial Ordinance No. 994 of 30 May 2012, stipulates that economic concentrations must be notified to CADE when, cumulatively, one of the groups involved in the transaction has gross turnover in Brazil of at least BRL 750 million (seven hundred and fifty million reais) in the year preceding the transaction, and the other group has recorded turnover of at least BRL 75 million (seventy-five million reais) in the same period.

264. As was established beyond dispute in response to Official Letter No. 2982/2026 (SEI 1764659), Amazon generated turnover in Brazil in excess of BRL 750 million, the statutory threshold for the turnover criterion, in the years prior to all the transactions under discussion.

265. Anthropic and its economic group, for their part, achieved turnover in excess of BRL 75 million in Brazil in 2025 alone, **[RESTRICTED ACCESS TO CADE AND AMAZON]**

[RESTRICTED ACCESS TO CADE AND ANTHROPIC]

266. As clarified in Section 4 of this opinion, the only transaction that would constitute a concentration subject to mandatory notification under Article 90(II) of Law No. 12,529/2011 is Anthropic I, dated 2023, as it falls within the scope of Article 10(II)(a) of CADE Resolution No. 33/2022. However, Anthropic's turnover in Brazil in 2022, the year prior to the transaction, was less than BRL 75 million.

267. Consequently, as the legal turnover criteria were not met, the minority acquisition transaction between Amazon and Anthropic did not meet the requirement set out in item II of Article 88 of Law No. 12,529/2011, read in conjunction with Interministerial Ordinance No. 994 of 30 May 2012, and therefore did not constitute a concentration requiring prior notification to CADE.

268. The collaboration agreements, for their part, although they meet the legal turnover criteria in relation to the 2026 versions, do not constitute a concentration requiring prior notification to CADE as they do not fall within the scope of Article 90 of Law No. 12,529/2011.

5. CONSIDERATIONS REGARDING POSSIBLE COMPETITION RISKS

269. The conclusion that the minority acquisitions and collaboration agreements examined in this APAC do not constitute a concentration requiring mandatory notification, under the terms of Article 90 of Law No. 12.529/2011 and CADE Resolution No. 17/2016, does not mean that relationships of this nature are devoid of potential competition implications. As demonstrated by comparative international experiences, investments and partnerships between major computing infrastructure providers and developers of artificial intelligence models can facilitate financing, innovation and access to essential resources, but they may also give rise to significant risks of technological or commercial dependence, increased switching costs, restrictions on the use of competing providers, access to sensitive information, favouritism towards in-house services and market foreclosure throughout the artificial intelligence value chain.

270. Such concerns are particularly relevant in markets characterised by high levels of investment, rapid innovation, a scarcity of certain inputs and increasing vertical integration. In such environments, corporate and contractual ties may, depending on their structure and concrete effects, influence the commercial autonomy of companies, reinforce positions of economic power or hinder competitors' access to the resources necessary for their development.

271. International experience shows that these concerns have not been addressed through a single approach. As noted above, foreign authorities have relied, in accordance with their respective powers and the specific circumstances of each case, on merger control, investigations into anti-competitive conduct, market studies, and regulatory instruments targeting digital markets. In the United Kingdom and the European Union, in particular, the development of specific regulatory regimes has broadened the scope for intervention on structural issues relating to interoperability, portability, switching costs and access to digital services and inputs.

272. The Brazilian legal framework does not currently provide for a regulatory regime equivalent to the European or British frameworks applicable to digital markets. This does not mean, however, that CADE lacks mechanisms to monitor changes in these markets and respond to concrete risks to competition. Law No. 12.529/2011 provides structural and behavioural instruments which, subject to their respective conditions, enable the authority to examine transactions not covered by the ordinary notification criteria and to investigate practices capable of producing anti-competitive effects.

273. One such mechanism is set out in Article 88(7) of Law No. 12.529/2011, as regulated by CADE Resolution No. 24/2019. This provision grants CADE the power, within one year of the relevant date of completion, to require the notification of concentrations that have not met the standard turnover thresholds.

274. This is an exceptional mechanism, which recognises that the economic size of the parties serves as an approximate benchmark and may not adequately reflect the strategic value of certain assets, the competitive potential of emerging companies, or the capacity of a transaction to give rise to competition concerns. As I highlighted in the judgment in APAC Case No. 08700.005966/2024-33 (Microsoft/Inflection), its usefulness is particularly relevant in digital and artificial intelligence markets, where companies with low turnover in the country may possess technology, data, talent or innovative capacity of significant competitive importance.

275. In its ruling on APAC Case No. 08700.003565/2024-49 (Azul/Gol), this Court provided further guidance on the interpretation of the scope of this provision. On that occasion, the opinion by Commissioner Carlos Jacques Vieira Gomes (SEI 1617148), which was unanimously endorsed, held that Article 88(7) is not limited to transactions that fail to meet the turnover thresholds, but may also apply to transactions that do not qualify as mergers under the ordinary provisions of Article 90. According to this interpretation, this prerogative would allow CADE to require the submission of any transaction between economic operators where the circumstances warranted a more in-depth analysis, particularly in sensitive sectors or those subject to significant consolidation trends.

276. The reference to this precedent highlights that the fact that a transaction does not constitute a concentration subject to mandatory notification does not necessarily exhaust CADE's powers. This does not, however, imply the automatic application of Article 88(7) to every contractual relationship that raises competition concerns. The application of this provision remains subject to a demonstration of its appropriateness and timeliness, the exceptional nature of the measure, and the existence of concrete evidence justifying the submission of the transaction to merger control.

277. In the present case, following an analysis of the minority shareholdings, the contractual instruments and the clauses governing the collaboration between Amazon and Anthropic, I do not identify sufficient grounds to justify the exceptional application of Article 88(7) of Law No. 12.529/2011. Although the nature of the market and the risks highlighted by comparable cases suggest that its development should be monitored, the circumstances currently observed do not demonstrate the advisability or appropriateness of subjecting the transaction to merger control.

278. In addition to merger control, the conduct-based control provided for in Article 36 of Law No. 12.529/2011 remains available. Even if a particular relationship does not constitute a concentration, its implementation may be investigated if it produces, or is likely to produce, the effects of restricting, distorting or impairing free competition, dominating a relevant market, arbitrarily increasing profits, or abusively exercising a dominant position. The analysis may, depending on the circumstances, cover exclusivity practices, discrimination in access to inputs, tying or bundling of services, improper

sharing of competitively sensitive information, artificial inflation of rivals' costs, or other strategies capable of restricting market contestability.

279. In summary, the finding that the collaboration between Amazon and Anthropic does not qualify as a joint undertaking resolves the specific question of whether it was subject to mandatory prior notification under the rules currently under consideration, but does not constitute a definitive judgement on all present or future competitive implications of the relationship. The dynamism of the artificial intelligence sector calls for continuous monitoring of its evolution, without conflating the absence of the requirements for mandatory merger control or the decision not to apply Article 88(7) at this stage with substantive immunity from competition law.

6. CONCLUDING REFLECTION

280. Pope Leo XIV's first encyclical, Magnifica Humanitas, eloquently states: 'Technical power, if not balanced, does not make us more capable: it makes us lonelier and more exposed to logics of domination and exclusion. It is not, of course, a question of opposing intelligence, but of recalling that when it turns in on itself, it forgets that it was made to serve life and the human person." (no. 113) The Encyclical is explicitly part of the Church's social teaching. It pays a fine tribute to Pope Leo XIII's seminal and celebrated Rerum Novarum, but also recalls others containing strong warnings, including one whose original language is not Latin, but German, by Pope Pius XI: *Mit brennender Sorge* ('With burning concern'), a title which was translated into English as 'With burning concern', into Spanish as 'With keen concern' and into Italian as 'With keen anxiety'. An Encyclical that denounced the totalitarian horror that was drawing near. Returning to artificial intelligence: our magnificent humanity is infinitely greater than artificial intelligence; a single human being cannot be encompassed by artificial intelligence. We must not lose sight of the immeasurable dimension of the human being. In this regard, the competition authority has a role to play – however sector-specific it may be – in addressing an issue that we must treat with great concern.

7. OPERATIVE PART

281. In view of the foregoing, pursuant to Article 9 of CADE Resolution No. 24/2019, I vote to **close** the APAC, considering that the present transactions are not subject to mandatory notification to CADE, since (i) the collaboration agreements do not fall within the scope of Article 90 of Law No. 12.529/2011 and (ii) the acquisition of a minority shareholding does not meet the turnover threshold set out in Article 88(II) of the same legislation.

This is my opinion.

JOSÉ LEVI MELLO DO AMARAL JÚNIOR
Rapporteur
[electronic signature]