

CADÉ YEARBOOK 2019

ADMINISTRATIVE COUNCIL FOR ECONOMIC DEFENSE



CADDE YEARBOOK

2019



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LETTER FROM THE PRESIDENT

2019 was the year of consolidation of institutional and structural changes at CADE. After the changes introduced by Law 12529/2012, CADE made historical achievements that not only consolidate but also take the defence of competition in Brazil to new levels.

These achievements were built throughout years, decades really, but it is my understanding that the wins described herein are an indication, at the beginning of a new decade, of how CADE has been working in favour of best practices for the agency and the country, to consolidate its position as a main player both in the country and globally, and to act together and in a coordinate fashion with Brazilian partner agencies.

The feeling for all of us, collaborators of CADE, is that our mission is being accomplished. The results talk by themselves. CADE has one of the shortest timeframes for analyses related to mergers and acquisitions in the world (29 days) and very successful agreements in Brazil as well as internationally. In regards to suppressing crimes against the economic order, the fines imposed and financial contributions agreed upon amounted to about BRL 960 million in 2019.

Indeed, there is a lot to celebrate in 2019. In the very beginning of the year, a historical feat was achieved: Brazil was accepted by the Organisation for Economic Co-operation and Development (OECD) as an associate member of its Competition Committee, an old claim that involved several sectors, civil servants and collaborators of CADE. We are the only representative of Brazil with this status within the Organisation. Our acceptance to join the Committee works as a sort of "international seal" of quality to the public policies for the defence of competition

adopted here.

Still regarding interinstitutional cooperation, in 2019, CADE became a permanent guest of the Executive Management Committee of the Foreign Trade Chamber (CAMEX) of the Ministry of Economy. Our role will be supporting the decision-making related to matters involving the defence of competition and trade defence, helping elaborate and promote improvements to the foreign trade policies in Brazil.

We have also managed, with the Legislative, another invaluable achievement: CADE's inclusion in the scope of the General Law of Regulatory Agencies, Law 13848/2019. Our inclusion in the scope of this Law demanded a lot of intense dedication throughout 2019. With this approval, CADE now has actual administrative, budgetary and financial autonomy, as recommended by OECD in its last evaluation of the agency's practices and organisation.

Concerning the suppression of crimes against the economic order, CADE analysed and judged several very important cases in 2019, some of which are amongst the biggest cases in the history of antitrust law in the country. In July, 2019, we judged the train cartel, which resulted in companies and individuals involved being convicted to pay fines amounting to a total of BRL 535.1 million. This case is an example of how CADE has been collaborating with other Brazilian agencies to coordinate actions against frauds and cartels in government procurements by using modern prosecution practices.

June and July, 2019, were important because of the signing of historic agreements. CADE and Petrobras signed several Cease and Desist Agreements (TCCs) in which the

state-owned company agreed to sell natural gas assets and eight oil refineries, including assets to fuel transportation, ending 'historic monopolies in these markets. The agreements stopped the ongoing investigation on alleged anti-competition practices at Petrobras. The intention was to stimulate competition in these sectors.

Regarding advocacy initiatives, I would like to point out the important role played by CADE, in 2019, in the debates about the civil aviation (especially in the case of luggage allowance and the remaining Avianca slots) and port markets (concerning the collection of SSE/THC-2).


In 2019, our actions were also aimed at the publication of regulations to perfect and optimize the practices at CADE. It is worth mentioning the new Statutes of the agency, Resolution 24/2019, which defined the administrative procedures for investigations regarding mergers and acquisitions, and CADE Ordinance 869/2019, which makes provisions about the access to documents that are part of administrative proceedings for imposing sanctions for crimes against the economic order. It is also worth mentioning the publication of the Guide for sending data to the department of Economic Studies (DEE), the Guide for Fighting Cartels in Procurements, and the Guide of Implementation of Technical Co-operation with Prosecution and Control Services.

CADE achieved 27 technical co-operation agreements (ACTs) with State Prosecution Services. These agreements are aimed at increasing communication to ensure more efficiency and agility in the actions to prevent and fight cartel practices and other crimes against the economic order. The consequences of the

aforementioned achievements are reflected in the ever-growing international recognition of our agency. We received, for the seventh year in a row, four stars in the annual ranking organised by the British Magazine Global Competition Review (GCR), specialized in competition policy and regulation. As a result, CADE remains amongst the ten most efficient anti-trust agencies in the world.

This Yearbook is divided in three parts. The first encompasses CADE's achievements related to the defence of competition. The second part presents the main accomplishments regarding institutional co-operation, both in Brazil and globally. Finally, the last part is dedicated to the measures adopted to strengthen our organization.

At last, I wish you all an excellent reading experience and invite you not only to know the work done at CADE, but also to join us in working for a more efficient, open, competitive and, naturally, more productive Brazil.



ALEXANDRE BARRETO DE SOUZA
President of CADE



The Administrative Council for Economic Defense (CADE) is a federal independent agency linked to the Ministry of Justice and Public Security, which has the mission of ensuring free competition in the market. CADE is the entity responsible, within the Executive Power, not only for investigating and making the final decision regarding competition matters, but also for supporting and disseminating the culture of free competition.

CADE, within its institutional competences, is responsible for analysing and approving or reprobating mergers and acquisitions, investigating practices harmful to free competition and, if applicable, imposing sanctions to offenders, and disseminating the culture of free competition. The principle of free competition is provided

for in article 170(4) of the Constitution of Brazil, and is based in the belief that competition cannot be restricted by economic agents with market power.

In a market in which there is competition amongst suppliers of a good or service, the prices practiced are usually the lowest possible, and companies must be constantly seeking new ways to become more efficient in order to increase their profits. As efficiency gains are achieved and disseminated amongst suppliers, prices are rearranged, and that benefits consumers. Thus, free competition ensures, on one side, smaller prices for consumers and, on the other, stimulus for companies to be creative and innovate.

Indeed, CADE plays three roles: (i) preventive, related to the analysis and decision-making regarding mergers and acquisitions; (ii) suppressive, concerning the investigation and ruling of cartels and other crimes against the economic order; and (iii) educative, which involves the dissemination of the culture of competition.

The Brazilian System for the Defence of Competition is governed by Law 12529/2011, which updated the Brazilian legal framework regarding antitrust matters, strengthening the performance of the agency in the defence of free competition. The main alteration caused by the enactment of the new law concerns the previous analysis of mergers and acquisitions by CADE: before a transaction is carried out, the parties involved must submit it to the agency for assessment.

With Law 12529/2011, business solutions for administrative proceedings gained unparalleled strength at CADE. From the agency's point of view, these are interesting for, simultaneously, allowing the cessation of the practice and the identification of agents that are behaving in ways that are harmful to competition, which were previously impossible to identify. It is also worth mentioning that it can be signed with CADE: Leniency Agreements, Cease and Desist Agreements (TCCs) and Merger Agreements (ACC).

The defence of free competition is done at CADE with the participation of qualified civil servants from several departments within the agency.

Defence of Competition

Mergers and Acquisitions

In defending competition, one of the duties of CADE is analysing the impact of mergers and acquisitions of companies to the market and society. Only transactions that fit the criteria for mandatory reporting need to be approved by the agency, as per the legal provisions on the matter.

Therefore, all mergers and acquisitions, related to all sectors of the economy, must be reported to CADE should they involve a company that had an annual revenue equal to or greater than BRL 750 million in the year prior to the transaction, and another one whose annual revenue was equal to or greater than BRL 75 million.

in the year prior to the transaction, and another one whose annual revenue was equal to or greater than BRL 75 million. In 2019, CADE received a record number of mergers and acquisitions reports, as of the enactment of Law 12529/2011: 442 transactions were analysed by the agency.

BRL 1.3 trillion

Is the total amount of the transactions that were reported to CADE in 2019

442

Mergers and Acquisitions were reported to CADE in 2019

Sectors with the most transactions reported



Electricity generation, transmission and distribution



Property development projects



Extraction of petroleum and natural gas



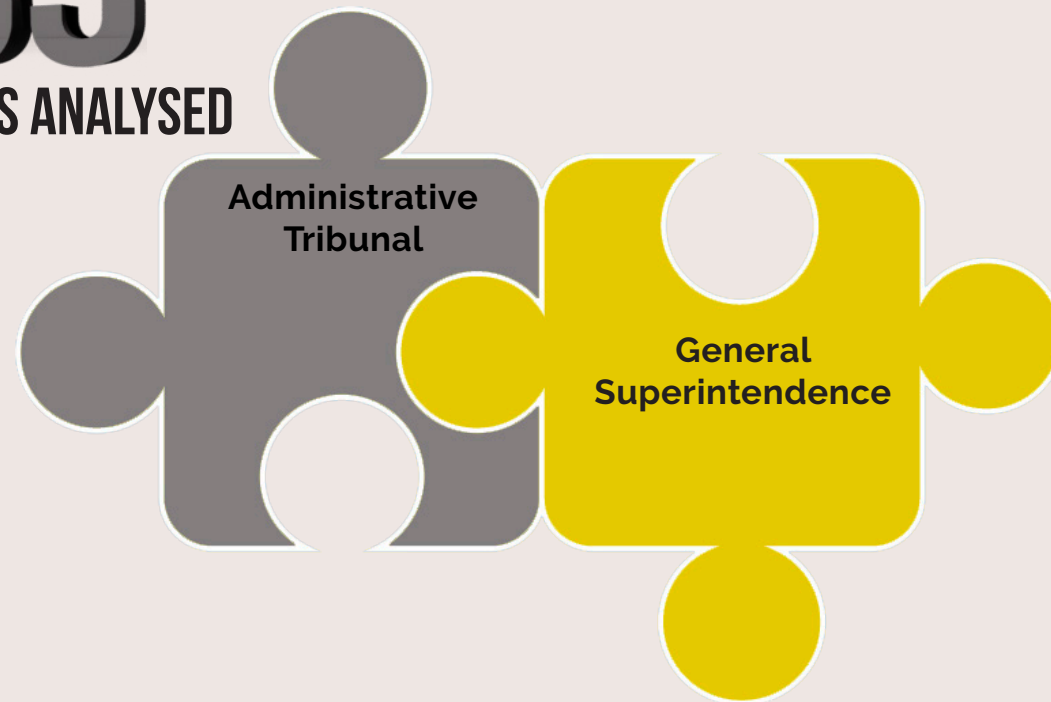
Health insurance



Decisions

433
TRANSACTIONS ANALYSED

After analysing the transaction, CADE decides either to clear or block the M&A. Some cases are only cleared by the agency upon signing of a Merger Agreement (commonly abbreviated in Portuguese as ACC) with the parties containing provisions for the adoption of measures to prevent potential competitive harm.



CLEARED WITH NO RESTRICTIONS **406**

CLEARED UPON SIGNING OF AN AGREEMENT **5**

NON-NOTIFIABLE **17**

ABANDONED M&A PLANS **5**

BLOCKED **0**

TOTAL **433**

Most important cases in 2019

M&A



In February, CADE cleared the acquisition of Fox by Disney with the condition that the Fox Sports channel was sold, among other things. Even though the parties made efforts in order to fulfil the request, the sale was not carried out in the time frame set by the Tribunal. Thus, CADE decided, in November, to review the transaction.

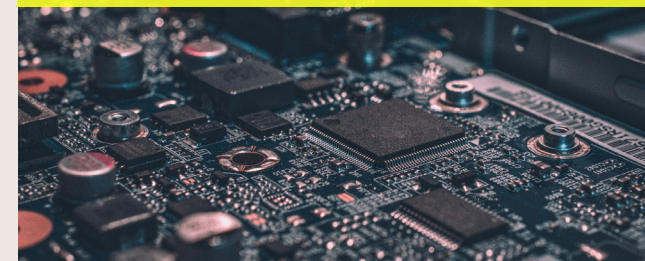
Disney and Fox

Reported on: 20 July 2018

Transaction value: BRL 236 billion

Decided on: 27 February 2019

M&A



In November, the acquisition of controlling interest of Red Hat by IBM was cleared with no restrictions by CADE. The Tribunal concluded that there was no potential risk regarding the adoption of strategies that could have a negative effect on competition. In December, the companies entered into an agreement with CADE and pledged to pay BRL 57 million for having consummated the transaction before it was cleared by the antitrust body.

IBM and Red Hat

Reported on: 9 April 2019

Transaction value: BRL 131.5 billion

Decided on: 13 November 2019

JOINT VENTURE



In June, CADE cleared, upon signing of a Divestiture Agreement, the joint venture between the GSK and Pfizer healthcare businesses. The parties suggested selling the Magnésia Bisurada line, which is the only medicine carried by Pfizer in the market of common antacids in Brazil.

GSK and Pfizer

Reported on: 27 February 2019

Transaction value: BRL 38.7 billion

Decided on: 11 June 2019

M&A



The transaction regarding the acquisition of Avon by Natura was cleared by CADE with no restrictions. The General Superintendence concluded there is enough rivalry in the personal hygiene market to prevent any risk of eventual abuse of market power resulting from the transaction. The decision was published in November.

Avon and Natura

Reported on: 9 August 2019

Transaction value: BRL 15 billion

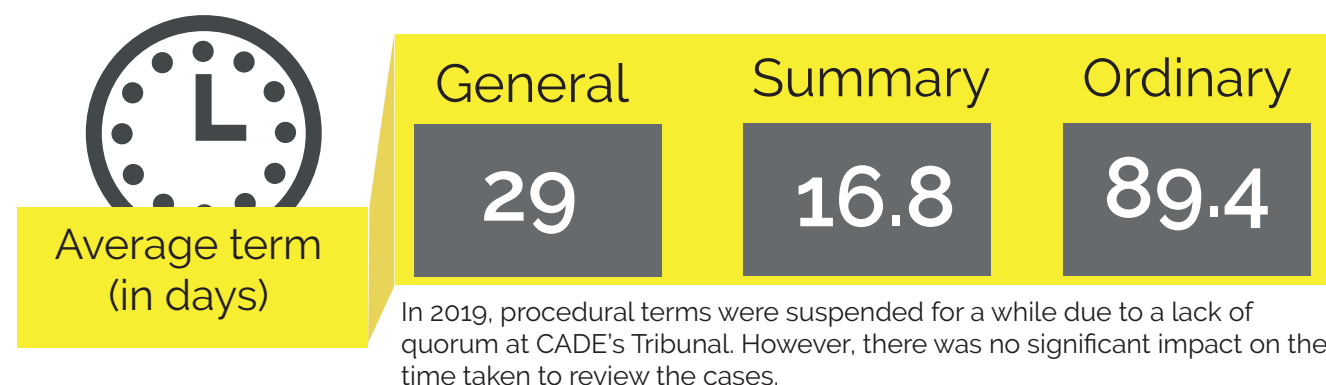
Decided on: 7 November 2019

Review time frame

M&As must be reviewed within 240 days. This legal term can be extended by another 90 days upon a reasoned decision of CADE's Administrative Tribunal, or by another 60 days at the request of the parties' lawyers.

The cases might be classified as summary, should they be considered simpler in regards to competition issues, or ordinary, should they demand a more detailed analysis. Summary cases must be reviewed within 30 days, as per the provisions of Resolution 02/2012.

It is important to point out that, in 2019, about 83% of all transactions were reviewed by CADE within an average term of 16.9 days through summary proceedings.



Unreported transactions

Mergers and acquisitions which meet the legal criteria for mandatory reporting cannot be consummated before being cleared by CADE, under penalty of the companies being investigated through an Administrative Procedures for M&A Assessment (commonly abbreviated in Portuguese as APAC).

In 2019, to perfect and optimise the procedures involved in APACs, CADE issued, in July, its Resolution 24. The regulation is aimed at increasing the predictability and transparency of the administrative process and, whenever applicable, the calculation of financial penalties.

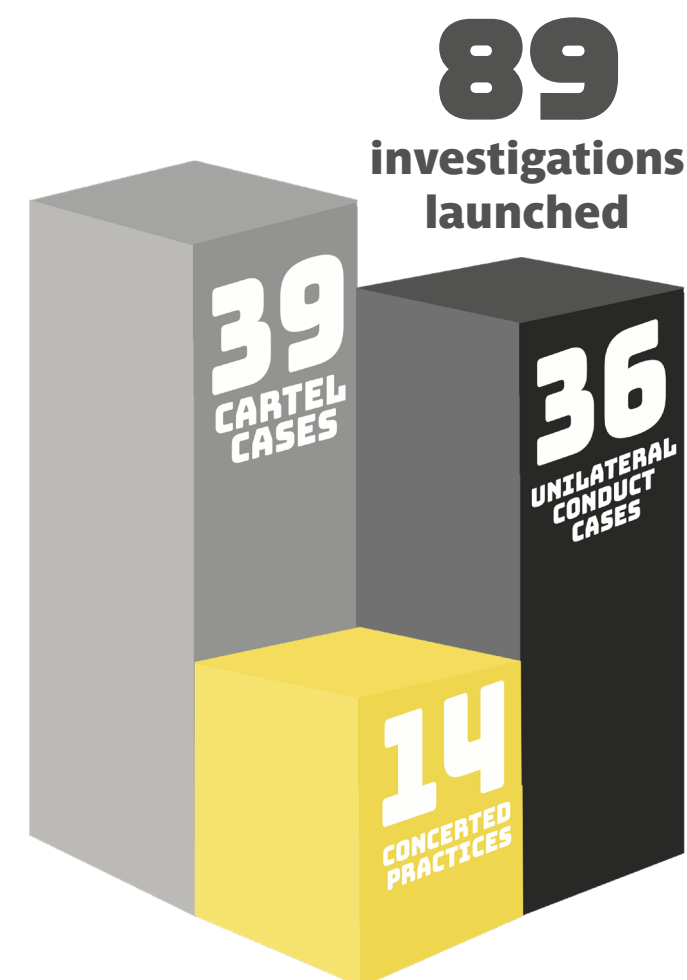
In 2019, the Administrative Tribunal tried five APAC cases. One of which was filed while the other 4 were concluded upon settlement with the parties involved, which acknowledge they incurred in antitrust violations and pledged to contribute financially to the Fund for De Facto Joint Rights (FDD).

14
investigations opened

7
investigations concluded – 4 were concluded after settlements with the parties involved and 3 were filed.

BRL 59.7
million in financial contributions

Anti-competitive practices



CADE is responsible for investigating and punishing any and all practices adopted by economic agents which might harm free competition, even if the infringer had no intention of causing harm to the market.

Companies convicted for anti-competitive practices are subject to fines and other penalties such as being prohibited from partaking in government procurements.

11 Leniency Agreements signed

3 searches and seizures

Cartel

Explicit or implicit agreement amongst competitors in an economic sector with the objective of combining prices or any other market practices. Competition, the supply of products and services, and regular price fluctuation are restricted because of coordinated actions amongst parties that should be competing amongst themselves.

Unilateral Conduct

Abusive business practices by an agent which holds a dominant market position. Amongst the infractions that can harm competition are included, for example, the creation of barriers to entry, exclusivity contracts, resale price maintenance and predatory pricing.

Concerted practices

The adoption of practices to standardise the practices of competitors. An example are price lists, usually provided by associations and unions. The effects are similar to those caused by cartels.

28

cases decided

15

cartel cases

3

concerted practices

10

unilateral conduct cases

**BRL 792.5
million**

**in fines
imposed**



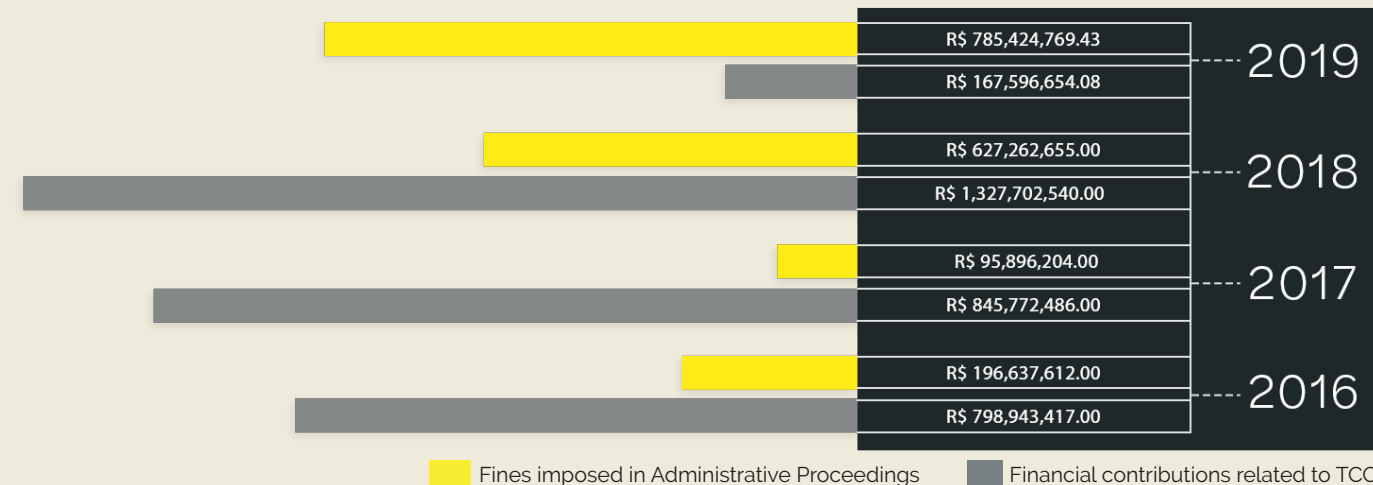
Triumph in lawsuits

In 2019, CADE's decisions were confirmed by the Judiciary in 65.25% of cases that were challenged in courts of justice.

Cease and Desist Agreements (commonly abbreviated in Portuguese as TCCs) are agreements signed between CADE and individuals or companies investigated for alleged crimes against the economy. Through this sort of agreement, the signatories pledge to cease the behaviour that generated suspicions of anticompetitive practices and to make financial contributions. Besides, other measures might be imposed to stimulate or re-establish competition in the market.

19 TCCs
signed

Fines and contributions imposed year by year



President
**Alexandre Barreto
de Souza**



Commissioner
**Mauricio Oscar
Bandeira Maia**



Commissioner
**Paula Farani
de Azevedo Silveira**



Commissioner
**Sérgio Costa
Ravagnani**



Commissioner
**Lenisa Rodrigues
Prado**



Commissioner
**Luiz Augusto Azevedo
de Almeida Hoffmann**



Commissioner
**Luis Henrique
Bertolino Braido**

CADE's Administrative Tribunal in 2019



**Polyanna Ferreira
Silva Vilanova**
Until July 2019



**Paulo Burnier
da Silveira**
Until July 2019



**João Paulo
de Resende**
Until July 2019

Most important cases in 2019



Train cartel

In July, CADE fined 11 companies and 42 individuals in BRL 535.1 million for cartel in government procurements related to trains and metros in the states of São Paulo, Minas Gerais, and Rio Grande do Sul, and in the Federal District. At least 26 procurement processes were affected by the collusion, which lasted from 1999 through 2013 (for further information, see page 25).



Proceedings involving Google

Throughout 2019, CADE judged and filed 3 proceedings involving alleged anticompetitive practices by Google. In the investigations carried out by the agency, it was not observed any losses to competition related to the search engine market. The antitrust body also came to the conclusion there was no evidence that Google had copied content from competitors or adopted abusive clauses in its ad platform contracts.



TCCs signed with Petrobras

In 2019, CADE signed two historic agreements with Petrobras. Through the TCCs signed, the company pledged to dispose of assets in the natural gas market and eight oil refineries, including assets related to fuel transportation. The agreements closed several ongoing investigations carried out by the agency regarding alleged anticompetitive practices by the state-owned company (for further information, see page 24).



Itaú and Rede

In October, CADE launched an administrative proceeding against Itaú and Rede to investigate alleged anticompetitive practices in the payments industry. The agency also imposed a preventive measure that determined the termination of the requirement that commercial establishments hold accounts at Itaú in order to be entitled to the most advantageous settlement conditions offered by Rede.



TCCs related to the Auto Parts Market

CADE signed, in 2019, 8 TCCs related to 7 cartel investigations into the auto parts market. Through the agreements, the signatories acknowledge their participation in illegal acts and committed to cease any and all anticompetitive practices, and to make a financial contribution in the total amount of BRL 120,084,528.58.

Contributions to the Fund for De Facto Joint Rights (FDD)

BRL 3.2 billion

Total amount collected by CADE as of the enactment of Law 12529/2011

CADE was the government body which collected more resources for the FDD in 2019

BRL 548.2 million

The Fund for De Facto Joint Rights (FDD) is managed by the Ministry of Justice and Public Security. The resources come from fines imposed by CADE, besides judicial convictions related to other de facto joint rights. The resources from the fund return to society through the financing of projects linked to the environment, consumer law, and competition law, as well as to historic, cultural and artistic heritage.

Check out some projects that were financed by the FDD in 2019:

CADE

New digital services for external and internal users

Ministry of Citizenship

Implementation of cisterns for low-income rural families

Federal Defender Services

Advising groups of recyclable materials collectors in Rio de Janeiro

Brazilian Institute of Museums

Creation of the Villa-Lobos Digital Museum

State Department of Culture and Creative Economy of the Federal District

Renovation of the Martins Pena Room at the National Theatre

10 YEARS OF THE DEPARTMENT OF ECONOMIC STUDIES

In September, 2019, CADE celebrated the tenth anniversary of its Department of Economic Studies (DEE). The department was created through Resolution 53/2009 as a result of the hard-work of the Technical Group of Economic Methodology which was made up of civil servants that worked with the Commissioners and the President of the competition authority.

At the beginning, the Department was an administrative unit subordinate to the Tribunal of the Brazilian antitrust agency. Subsequently, Law 12529/2011, which rearranged the Brazilian System for the Defence of Competition, formally instituted the DEE as one of the bodies that make up CADE, together with the General Superintendence and the Administrative Tribunal.



DEE's activities are divided in two supplementary areas: advising the Superintendence and the Tribunal in the instruction and analysis of proceedings involving mergers and acquisitions, and anti-competitive practices; and carrying out studies to evaluate the competitive situation in the market and the performance of the agency.

The DEE's mission is to make complex economic theories comprehensible to all who work in antitrust. The department manages to fulfil its purpose on a daily basis and continues to ensure that CADE's decisions are accurate and up-to-date with technical and scientific advances.

9

Journals

The purpose of these studies is to consolidate, systematise and disseminate precedents related to a specific market, considering its economic and competitive aspects.

199

Technical Opinions

The DEE, on its own account or at the request of the Tribunal or the General Superintendence of CADE, issues opinions regarding M&As and investigations, taking a stand on issues discussed in administrative proceedings at CADE.

18

Work Documents

The purpose of these studies is disseminating economic analyses related to the areas in which CADE operates. Through these publications, the DEE seeks to improve the analysis of transactions, assist in the investigations involving anticompetitive practices, and promote competition advocacy in the public and private sectors.

58

Events

The DEE organised, throughout 10 years, 37 Seminars on Economics and Competition Defence, and 21 Competition Observatories. The events are intended to promote discussions that contribute to the generation of technical and practical knowledge related to the defence of competition.

Studies published in 2019

To stimulate the debate on economic issues applied to policies related to the defence of competition, CADE produces several studies on specific markets. In 2019, the DEE elaborated a series of works that contributed to the dissemination of the culture of competition.

CADE's Journal – Payment Market

The motivation for this study was the great expansion of the card industry in recent years and the need to foster this sort of research.

CADE's Journal – Cement Market in Brazil

The study compiles information regarding methodologies adopted by CADE's Tribunal throughout the years on the economic analysis in the cement market.

Work Documents – Crushed Stones Cartel

It assesses the benefit of CADE's actions in fighting the crushed stones cartel in the São Paulo City metropolitan area.

Work Documents – Antidumping Measures

It addresses the relationship between competition in the markets and policy measures aimed at exempting national companies from external competitive pressure.

Work Documents – Sadia/Perdigão

It analyses the competitive effects of the merger involving Sadia and Perdigão, which created BRF Brasil Foods, in the frozen food market in Brazil.

Work Documents – Fuels in the Federal District

It estimates the positive impacts of CADE's actions for fuel consumers in the Federal District after its intervention resulted in the cartel being dismantled.

Work Documents – Detection of Cartels in Government Procurements

It presents a methodology which uses economic filters based on I-Moran statistics for detecting cartels in electronic reverse auctions of government procurements.

Competition advocacy

In 2019, CADE worked hard to improve its performance in matters related to competition advocacy. The advocacy area encompasses activities aimed at promoting competitiveness amidst government bodies and society. The objective is contributing to public policies related to issues that are in the sphere of the agency's competence.

Thus, CADE has played an important role in the discussions about the civil aviation market, especially regarding luggage allowance and the remaining slots of the company Avianca. The agency also had a prominent role in actions related to the natural gas and refinery sectors, which culminated in the opening of these markets. The elaboration of a report on competition policies and enforcement in the countries that make up BRICS (Brazil, Russia, India, China and South Africa) regarding digital markets also shows the important role performed by the agency in this area.

Civil Aviation



In April, the DEE issued a Technical Opinion in which it listed concerns regarding competition matters related to the Bill that opened the aviation sector to foreign investment, especially with respect to luggage allowance. The document was sent to the Congress to support the discussions on the matter. In June, CADE, the Federal Prosecution Services and the Federal Department of Consumer Affairs sent a formal letter to the Brazilian Civil Aviation Agency (ANAC) making the recommendation that the concept of new entrant be more flexible in the Congonhas Airport, and that the percentage of Avianca's remaining slots be modified. The proposed measures are intended to stimulate competition in the Brazilian Civil Aviation sector.

Digital Markets



Issued in September, the report "BRICS in the Digital Economy: Competition Policy in Practice" provides an overview of competition and enforcement policies in the BRICS countries. The document addresses different experiences in the application of antitrust measures to explore common challenges and possible insights for each of the group's authorities (for further information, see page 37).

Natural Gas and Refinery Sectors



The coordinated actions by CADE, the National Petroleum Agency, the Ministry of Economy and the Ministry of Mines and Energy resulted in the launching, in July, of the program "Novo Mercado de Gás" (New Gas Market)". The Federal Government initiative is aimed at establishing the necessary conditions for companies to become increasingly competitive in the production and transportation of gas through the economic opening of the sector. On the same occasion, the Monitoring Committee for the Opening of the Natural Gas Market was created. The committee is made up of representatives from CADE and other federal government bodies. During the launch ceremony, the President of CADE, Alexandre Barreto, reinforced the importance of the agreements signed with Petrobras to stimulate competition in these markets (for further information, see page 24).

Regulations and Guidelines

CADE was also focused, in 2019, on the publication of regulations aimed at improving and optimizing its procedures and practices. The regulations are established to offer greater transparency and legal certainty to society.

Moreover, in its educational role, the antitrust body has been producing guides aimed at establishing guidelines on matters related to competition policy and institutional procedures.

New Statutes



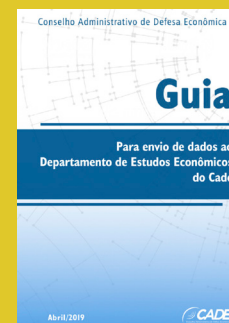
The document came into force in September, 2019. The main objective of the amendments to the text concerns the adequacy of rules that needed to be reformulated.

Resolution on Administrative Procedures for Merger Assessment



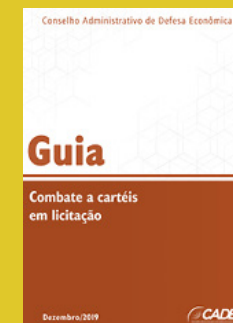
In July, the resolution that regulates the administrative procedures for M&A assessment (APAC) was approved. The document is intended to increase the predictability and transparency of the process.

CADE's Guides



Guide for sending data

Published in April, the document offers guidance to the market regarding the standardization of information requested by the antitrust authority to improve and speed up the analysis of cases.



Guide to fighting cartels in procurements

Issued in December, the document consolidates the experience of CADE in its more than twenty years fighting cartels, with emphasis on collusion in procurement processes.

HIGHLIGHTS OF THE YEAR

Historic agreements with Petrobras

CADE signed, in 2019, two historic agreements with Petrobrás. The cease and desist agreements (usually abbreviated in Portuguese as TCC), signed amid ongoing investigations carried out by the agency, were aimed at stimulating competition in the natural gas and refinery markets.

The Minister for Mines and Energy, Bento Albuquerque, the Deputy Minister of Economy, Marcelo Pacheco dos Guarany, the President of CADE, Alexandre Barreto, the General Superintendent of CADE, Alexandre Cordeiro, the president of Petrobras, Roberto Castello Branco, and the Chief Executive Officer of the National Petroleum Agency (ANP), Décio Oddone were present at the time of signing of both agreements.

The first agreement, signed in July, suspended the ongoing investigation on the alleged abuse of dominant position by the state-owned company in the refinery market. Under the agreement, Petrobrás committed to sell eight refineries, including assets related to fuel transportation. The measure is intended to

increase competition in the national refinery market, hitherto almost entirely exploited by the company, through the entry of new agents which would attract investments to the sector. The

agreement established the sale of the following units: Refinaria Abreu e Lima, in the state of Pernambuco; Unidade de Industrialização de Xisto and Refinaria Presidente Getúlio Vargas, both in the state of Paraná; Refinaria Landulpho Alves, in the state of Bahia;

Refinaria Gabriel Passos, in the state of Minas Gerais; Refinaria Alberto Pasqualini, in the state of Rio Grande do Sul; Refinaria Isaac Sabbá, in the state of Amazonas; and Refinaria Lubrificantes e Derivados de Petróleo do Nordeste, in the state of Ceará.

The divestment of the refineries must be completed by 31 December, 2021, subject to the impending circumstances provided for in the agreement. The transactions must be reported to CADE for detailed analysis of competition matters related to the acquisitions, insofar as the reporting is mandatory as per the legal provisions.

The agreement concerning the natural gas market, on its turn, was signed between CADE and Petrobras in July. It was mainly aimed at mitigating structural problems in this market, also almost entirely exploited by the company. The agreement stimulates the entry of new companies and new national and international investments in the sector.

Under the agreement, the state-owned company committed to sell the carriers Nova Transportadora do Sudeste, Transportadora Associada de Gás, and Transportadora Brasileira Gasoduto Bolívia-Brasil. The company also agreed to sell any indirectly owned shares of distribution companies.

The signing of the agreement suspended ongoing investigations carried out by the agency on alleged anti-competitive practices of the company in the natural gas market.

The train cartel

In 2019, CADE concluded one of the largest investigations in its history: the case of the cartel in government procurements for trains and metros in the states of São Paulo, Minas Gerais, Rio Grande do Sul, and in the Federal District. The investigation was launched in May, 2013, after the signing of a leniency agreement with the company Siemens.

Based on the evidence presented by the company, CADE obtained judicial authorisation to carry out a search and seizure operation.

The analysis of the material collected – over 30 terabytes of electronic data and paper documents – resulted in the launching of administrative proceedings 08700.004617/2013-41 in March, 2014. At the end of the discovery phase, the General Superintendence of CADE recommended the Tribunal convict the parties involved.

In July, 2019, the case was scheduled for trial by the Rapporteur Commissioner João Paulo de Resende. The support of the Office of the Attorney General at CADE was essential for the reversal of the Decision of revocation 3099 by the Brazilian Federal Superior Court, which made it possible to judge the case.

Thus, in the plenary session carried out on 8 July, the Tribunal of CADE found 11 companies and 42 individuals guilty of cartel practices. The evidence collected throughout the investigations indicated the cartel members had divided the market, fixed prices, established conditions, advantages and forms of participation of the companies in the procurements. At least seven projects and 26 processes were affected by the cartel from 1999 through 2013.

For anti-competitive practices, the companies Alstom Brasil Energia, Bombardier Transportation Brasil, CAF Brasil Indústria e Comércio, IESA Projetos Equipamentos e Montagens, MGE Equipamentos e Serviços Rodoviários, Mitsui & CO Brasil, MPE – Montagens e Projetos Especiais, TC/BR Tecnologia e

Consultoria Brasileira, Empresa Tejofran de Saneamento e Serviços, Temoinsa do Brasil, and TTrans Sistemas de Transportes, were ordered to pay fines totalling BRL 515.6 million. Meanwhile, the 42 individuals were ordered to pay fines amounting to BRL 19.5 million.

Besides fining everyone involved, the Tribunal prohibited Alstom from partaking in government procurement processes, in the fields of activities affected by the illegal practices, for five years. CADE also recommended that the companies Alstom, Bombardier and CAF, should not be granted, for a period of five years, instalments of federal taxes due, tax incentives and government subsidies.



Institutional Cooperation

CADE's current administration is focused on institutional actions coordinated with federal government bodies, and increasing the agency's participation in international matters, especially in Latin America. Thus, the agency has endeavoured to achieve institutional excellence in competition defence by increasing its coordination and integration with several national and international organisations.

Brazil joins OECD's Competition Committee as an associate member



In 2019, CADE accomplished a historic feat: Brazil was accepted to join the Competition Committee of the Organisation for Economic Co-operation and Development (OECD) as an associate member.

The discussions leading to Brazil's acceptance started in December, 2017. Through coordinated actions with the Ministry of Foreign Affairs, CADE formalised the application during the OECD Global Forum, held in Paris that year.

After receiving the green light by the organisation, CADE underwent a peer review process in 2018, which included a thorough and comprehensive analysis of the Brazilian competition policies and legislation, and their adequacy to the OECD's standards. As a result of the analysis, the OECD formulated the report Competition Law and Policy in Brazil, which mentioned CADE as one of the most efficient government bodies in Brazil.

In March, 2019, CADE gathered federal government authorities and representatives of the antitrust community to release the report, which supported Brazil's acceptance as an associate member of the OECD Competition Committee (for further information, see page 36).

Brazil's acceptance as an associate member is a recognition of the notable advances the agency has made in antitrust matters in recent years.

NATIONAL COOPERATION

In 2019, CADE established a record for cooperation agreements signed with State Prosecution Services

Throughout 2019, CADE entered into Technical Cooperation Agreements with the Public Prosecution Services of the states of Amazonas, Pernambuco, Rio de Janeiro, Rio Grande do Norte, and Roraima. As a result, CADE achieved its goal of having partnerships with all State Prosecution Services in the country.

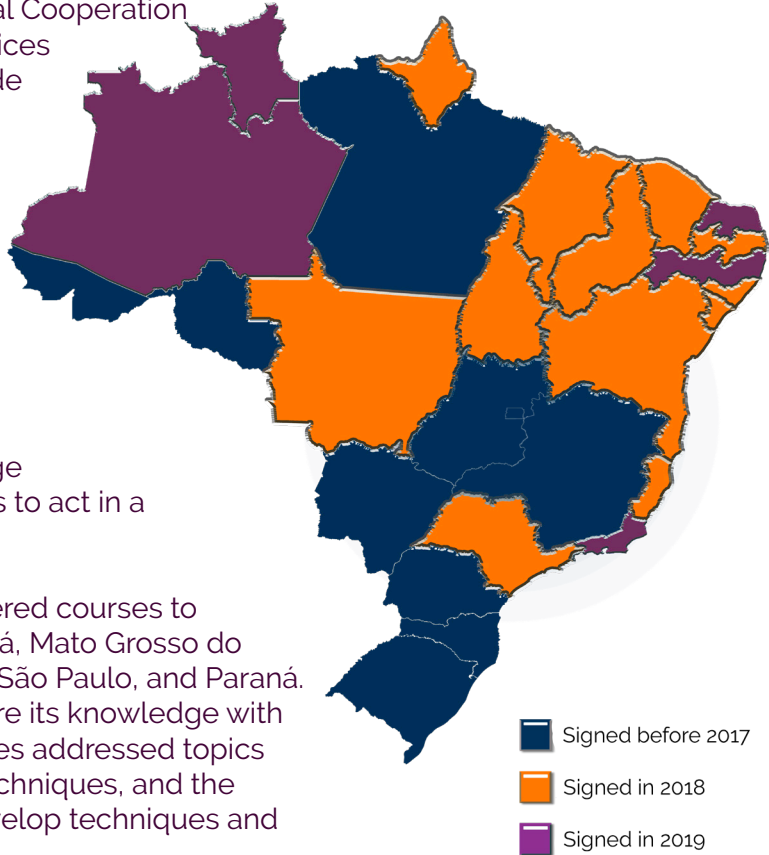
These partnerships are aimed at improving communication, thus promoting greater efficiency and promptness to deter and prevent cartels and other economic crimes. Through these agreements, the agencies commit to exchange information, knowledge, data, and documents to act in a coordinated manner to fight these crimes.

As a part of these partnerships, CADE has offered courses to the Prosecution Services of the states of Ceará, Mato Grosso do Sul, Bahia, Amazonas, Roraima, Amapá, Pará, São Paulo, and Paraná. This initiative is part of CADE's strategy to share its knowledge with partners to improve investigations. The lectures addressed topics such as competition defence, investigative techniques, and the Project Cérebro, which uses databases to develop techniques and tools for identifying cartels.

The cooperation with Prosecution Services has proven fruitful in the three searches and seizures carried out by CADE in 2019 during investigations into anti-competitive practices. The operations were supported by the Prosecution Services of the states of Rio de Janeiro and São Paulo, and of the Federal District.

Prosecution Services of the State of São Paulo

In September, CADE strengthened its partnership with the Prosecution Services of the State of São Paulo through a Memorandum of Understanding (MoU). The document is intended to enhance the coordination of activities of the two institutions regarding Cease and Desist Agreements and Plea Bargains related to investigations into antitrust violations in administrative and criminal cases. The MoU states the authorities will be able to exchange information and experiences, within the limits set out by law. Moreover, it sets forth that a given legal or natural person that formalises a proposal to enter into such agreements with one of the institutions will be able to invoke the other institution to do the same with regard to directly or indirectly related crimes.



Control bodies

In 2019, CADE also intensified its institutional cooperation with control bodies. These partnerships are aimed at increasing communication between institutions to strengthen actions intended to deter and prevent economic crimes, such as cartels in government procurements. The agreements were signed with the Office of the Comptroller General of the State of Santa Catarina and the Court of Accounts of the State of Mato Grosso do Sul. Moreover, the agreements with the Comptroller General of the City of São Paulo and the Court of Accounts of the State of Minas Gerais, still in effect, were extended. Additionally, throughout 2019, the Brazilian Court of Accounts and CADE carried out activities together to detect any anti-competitive practises in government procurements, within the scope of the co-operation agreement signed in December, 2018.

Regulatory agencies

To improve the coordinated actions to oversee and audit regulated markets, CADE established several technical partnerships with regulatory agencies, furthering the defence of free competition in these sectors. The agreements provide for the interchange of documents, information, and technology tools, and for arranging meetings, gatherings, workshops, technical visits, and training sessions. In 2019, CADE signed agreements with the Brazilian Health Agency and the Brazilian Waterway Transportation Agency; extended its partnership with the Brazilian Health Surveillance Agency; and added a work plan to the agreement in force with the Brazilian Civil Aviation Agency. CADE has also carried out actions together with the Brazilian National Agency of Petroleum, Natural Gas and Biofuels; with the Securities and Exchange Commission, and with the Brazilian National Mining Agency, all within the scope of previously established partnerships.

Civil society organization

In 2019, CADE and the Brazilian Committee of the International Chamber of Commerce (ICC Brasil) entered into a technical cooperation agreement aimed at publicising the culture of competition. The instrument covers the conduction of bilateral studies and research, as well as publications resulting from the interchange of knowledge between the parties. The endeavour also includes the organisation of lectures, conferences, seminars, symposiums, congresses, and other events on competition law. Furthermore, in 2019, CADE also extended the agreements signed with the Brazilian Institute of Studies on Competition, Consumer Affairs, and International Trade (IBRAC) and the Brazilian Bar Association of the State of São Paulo and of the Federal District. The partnerships create mechanisms that allow for effective and continuous communication between CADE and the three organisations to improve the electronic services provided by the antitrust authority.

National events

Debate on cartels

In June, CADE hosted the event “Cartel as an infringement by object: history and presumptions” as part of a partnership with the group Women in Antitrust Brasil (WIA). The discussions addressed cases tried in accordance with the antitrust laws in effect to analyse how CADE has seen cartels as violations by object and which presumptions arise from this.



Workshop CADE in the Digital Age

CADE's personnel attended a workshop to discuss the digital economy and the challenges it poses to competition defence policies. This has been a key topic since the body became responsible for coordinating the BRICS Working Group for Research on the Competition Issues in the Digital Markets. The workshop took place in April and gathered around 80 participants at Instituto Serzedello Corrêa.



Seminars on Economics and the Defence of Competition

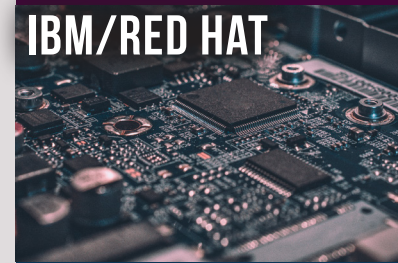
The project, an initiative by CADE's Department of Economic Studies, encourages the sharing of ideas, research, and practises related to Economics applied to antitrust policies. It is aimed at promoting an exchange of experiences, and bringing together the actions of government and academia. In 2019, the seminars addressed topics such as damages caused by cartels, the payment market, and the outcome of the actions CADE took to fight the crushed stones cartel in São Paulo.



INTERNATIONAL COOPERATION

CASES ANALYSED

IBM/RED HAT



INFORMATION TECHNOLOGY

AUTHORITIES

USA
EU

GSK/PFIZER



PHARMACEUTICALS

SOUTH AFRICA

DISNEY/FOX



ENTERTAINMENT

CHILE
MEXICO
USA
ARGENTINA

AVON/NATURA



COSMETICS

MEXICO
CHILE
EU

BRICS WORKING GROUPS

CADE actively participates in three working groups with BRICS competition authorities related to the automotive, the pharmaceutical, and the digital markets, this latter headed by CADE and the Russian authority.

MAIN INTERNATIONAL FORUMS OF WHICH CADE IS A MEMBER

- ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)
- UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)
- INTERNATIONAL COMPETITION NETWORK (ICN)
- BRICS
- ALIANZA ESTRATÉGICA LATINOAMERICANA

Cooperation Map



33
Partnerships

Initiatives for interchanging information with other competition authorities and international organisations in benchmarking and case analysis.

16
Inter-institutional agreements in effect

Agreements signed with competition authorities and international bodies to set up international cooperation projects.

2
Exchange programmes

Participation of civil servants from competition authorities in inter-institutional exchange programmes.

4
Institutional visits

Visits from foreign delegations to CADE and from CADE's representatives to foreign authorities or international organisations as part of technical missions.

1
Inter-institutional agreement being discussed

Negotiations started in 2019 to foster international cooperation with other competition authorities and international organisations.

International events

ICN CARTEL WORKSHOP

In October, CADE hosted the 2019 Cartel Workshop of the International Competition Network. The event brought together, in Foz do Iguaçu, in the Brazilian State of Paraná, over 200 professionals of 40 different countries to discuss issues related to the fight against cartels, which are universally regarded as the most serious economic crime.

The workshop is annually organised by the ICN and is aimed at fostering discussions on the challenges and best practises related to the matter. Moreover, it also promotes the strengthening of institutional ties amongst the major competition authorities around the world, boosting international co-operation in the investigation of cartels.

The main topic of the event was Cartels in the Age of Data-Driven Economy. Discussions revolved around the challenges of the data-driven digital age, which might facilitate the creation of collusions between competitors while at the same time making it easier for competition authorities to detect cartels.

Amongst the topics discussed were challenges and information management in data-driven markets; antitrust responsibility for software-based violations; intelligence and screening tools; leniency agreements and evidence in the digital age; and due legal process and cooperation tools.



DESIGNING ANTITRUST FOR THE DIGITAL ERA

On 31 July and 1 August, 2019, CADE hosted the international conference Designing Antitrust for the Digital Era. The event, which was held in the auditorium of the Ministry of Justice and Public Security, discussed how to adapt the Brazilian competition defence policies to digital markets.

The discussions were arranged into five panels, plus some special sessions, and addressed different views on an array of topics connected to antitrust enforcement in these markets.

During the first day of the event, representatives from the BRICS competition authorities spoke about the recent challenges caused by the digitalisation of the economies in their countries. Another topic discussed was the state of the art in the debate on how to adjust antitrust policies to the digital age.

The second day of the event was focused on the role of data in the digital economy and the challenges faced formulating antitrust remedies for this market.

At the closing session, the president of CADE, Alexandre Barreto, pointed out that the discussions which took place throughout the event indicate the importance of having frank, open discussions when searching for solutions for important issues such as competition defence in the digital age.

The president also mentioned how CADE is constantly working to update its knowledge and adopt international best practises regarding any matter relevant to antitrust policies. "We are always open for discussions and to establish closer relations with foreign authorities and multilateral organisations", he added.



HIGHLIGHTS OF THE YEAR

The Release of the OECD Peer Review

In March, 2019, CADE met with federal government authorities and representatives of the antitrust community to officially release the report Competition Law and Policy in Brazil. The document reported Brazil's acceptance as an associate member of the Competition Committee of the Organisation for Economic Co-operation and Development (OECD). Amongst the authorities that attended the ceremony were the Ministry of Justice and Public Security, Sergio Moro, the chair of the OECD Competition Committee, Frédéric Jenny, and the Acting Head of the OECD Competition Division, Antônio Capobianco.

The report was produced by the organisation through a peer review process and includes a comprehensive analysis of the Brazilian System for the Defence of Competition and the adequacy of the country's policy and legislation to the standards set by the OECD. As a result of this assessment, the OECD stated CADE "is considered one of the most efficient Brazilian government agencies. Its position as one of the major competition authorities, both regionally and globally, reinforce its perception in Brazil as a model government agency".

The report also called attention to CADE's policy for fighting cartels, which, according to the publication, has been improved as a result of advances in the agency's Leniency Programme, as well as in its institutional co-operation agreements, intelligence tools, and investigative techniques.

During the ceremony, CADE's president, Alexandre Barreto, pointed out that Brazil's acceptance as an associate member of the OECD Competition Committee is a token of the notable progress achieved by the country in recent years. "Moreover, it is a seal of quality that indicates to the international community and foreign investors that Brazil's antitrust policy is on the right track. Besides, it indicates the continuity of the policies for the defence of competition in the country," he declared.

Report on the digital economy

In September, 2019, CADE released the report "BRICS in the Digital Economy: Competition Policy in Practice" during the 6th BRICS Competition Conference, held in Moscow, Russia.

The document provides an overview of competition and enforcement policies for digital markets in the BRICS countries. It examines the various experiences on the enforcement of antitrust rules to explore common challenges and gain possible insights from each of the authorities.

The report is a result of the efforts of the working group Research on the Competition Issues in the Digital Markets, led by CADE and the Russian competition agency. The group was created during the 5th BRICS Competition Conference, held in Brasília in 2017.

The report was created from answers to a survey intended to examine the practises and challenges faced by the competition authorities of BRICS countries about the digital economy. The publication is based on the replies submitted by the Brazilian, Russian, Indian, and South African bodies. Due to a recent institutional reform, the Chinese authority could not contribute to this report, although it will be included in future analyses.

This is the first of a series of products to be published by the working group in the following years to improve the understanding and assessment of competition policies for substituir por the digital economy, and strengthen cooperation among the authorities.

"We hope this material provides

full information not only to the BRICS community but also to the global antitrust community, which faces challenges in applying competition policies to the digital Economy", said CADE's President, Alexandre Barreto.



Consolidation of CADE



WORKFORCE

In 2019, CADE launched a comprehensive recruitment drive to enlist civil servants. As a result, the agency received over 3,500 curricula vitae.

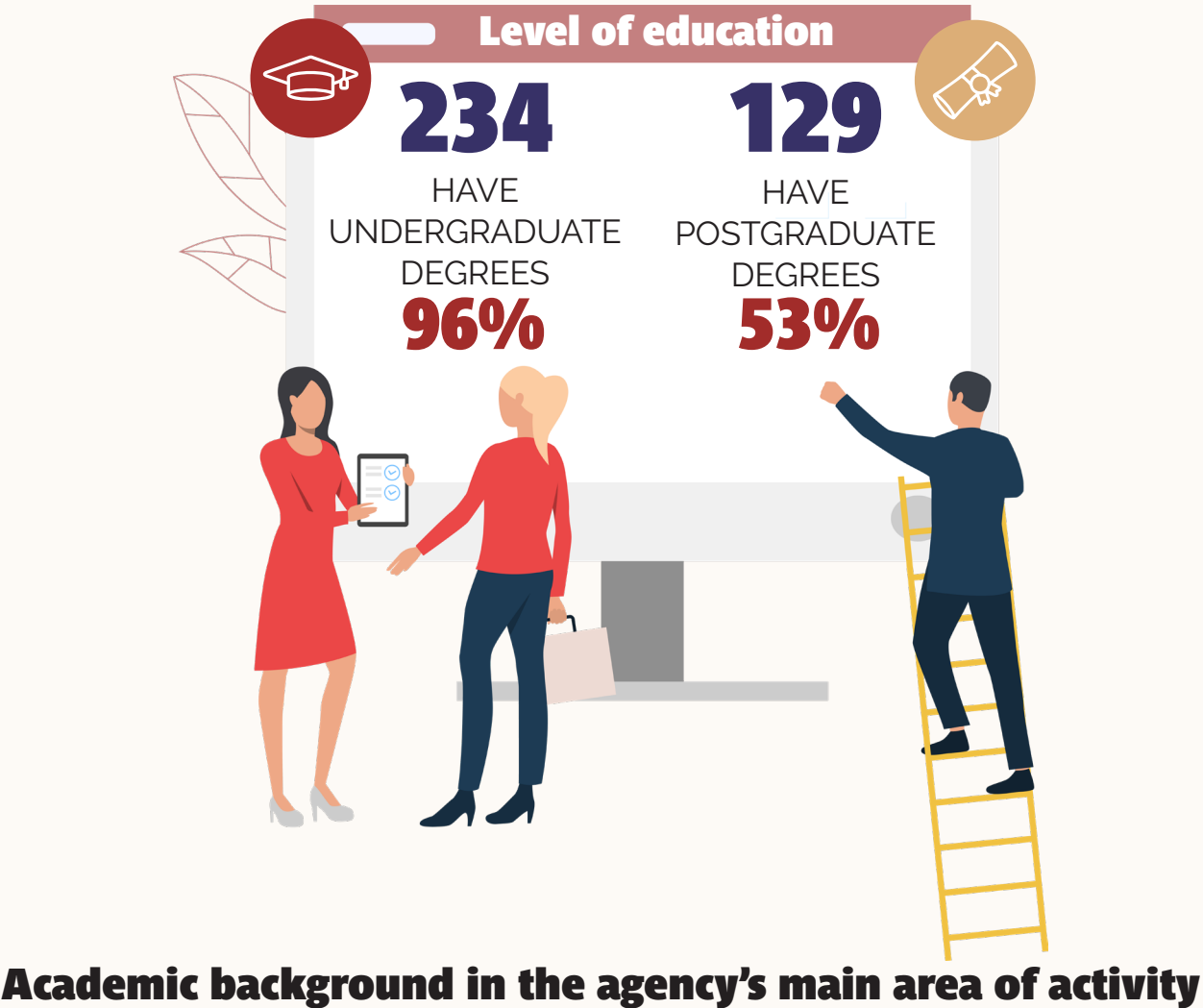
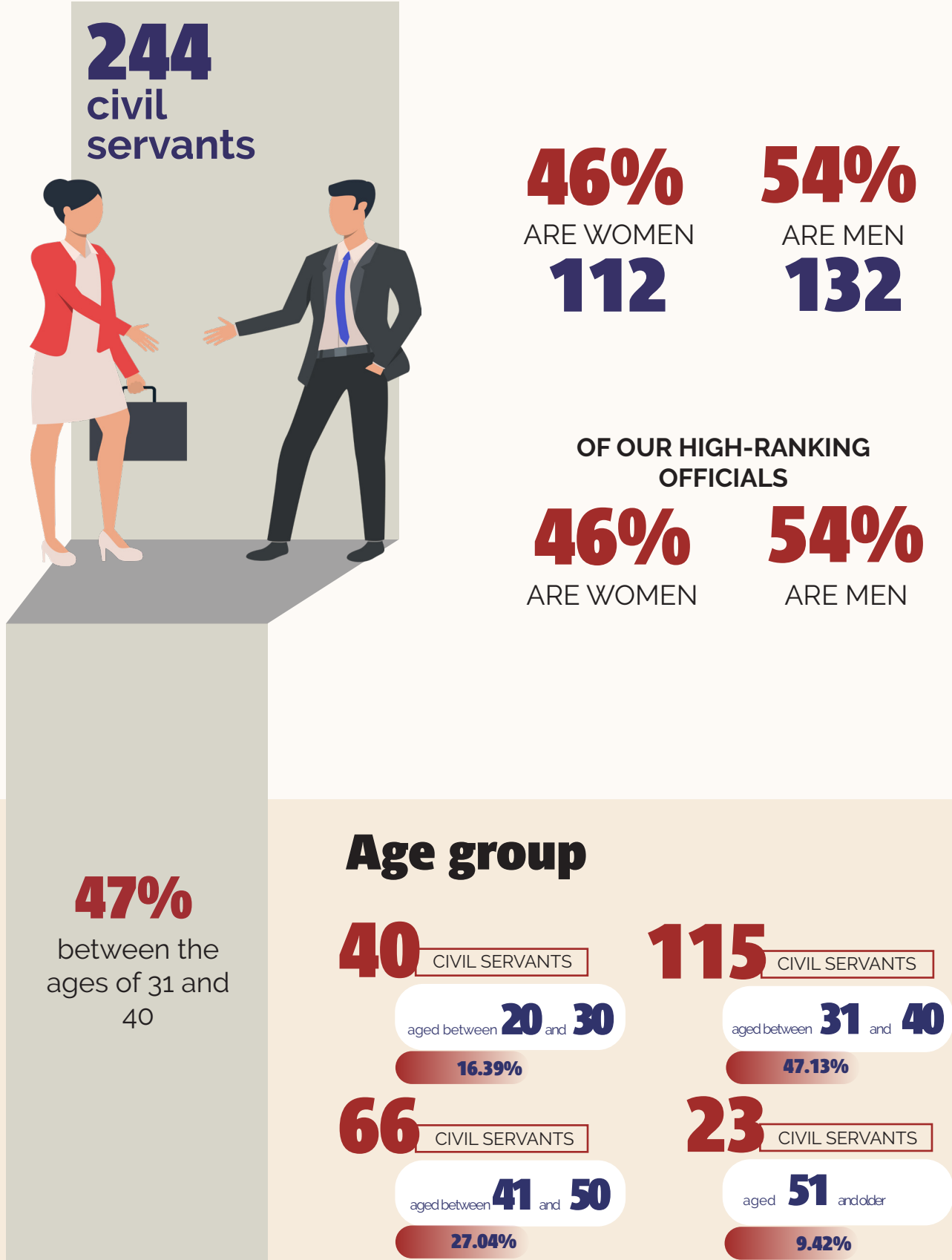
The large number of applicants took into account CADE's reputation as a technical agency, its pleasant corporate culture and high-quality facilities, the training opportunities available, the ethical and professional workplace environment created, and the employee appreciation policies in place.

Out of the selected applicants, 21 highly educated professionals that were chosen have already started working at CADE.



civil servants, trainees,
and outsourced employees
are part of CADE's workforce

PROFILE OF OUR CIVIL SERVANTS



Law

72 (45%)



Economics

34 (21%)



Other

43 (27%)

NEW COMMISSIONERS

The year 2019 was marked by the arrival of new members to our team.

Four new commissioners are now part of the Administrative Tribunal of CADE. Moreover, the General Superintendent, Alexandre Cordeiro, and the Chief Prosecutor, Walter de Agra Junior, were reappointed.

The officials took office over October and November, following the Brazilian Senate's approval.

After lacking sufficient personnel for a quorum for some time, the Administrative Tribunal finally resumed hearings in order to carry on its important duty of fostering free competition in the country.

The Tribunal welcomed new commissioners Lenisa Rodrigues Prado, Luis Henrique Bertolino Braido, Luiz Augusto Azevedo de Almeida Hoffmann, and Sérgio Costa Ravagnani.



Lenisa Rodrigues Prado

holds a degree in Law from Centro Universitário de Brasília and a master's degree in Constitutional Law from Instituto Brasileiro de Direito Público. She has previously held a position as a Commissioner at the Brazilian Administrative Council of Tax Appeals.



Luiz Hoffmann

holds a degree in Law from Universidade Presbiteriana Mackenzie and a doctorate in Civil Law from Università di Camerino and Universidade de São Paulo. He has previously worked at the Federation of Industries of the State of São Paulo as the Director of the Legal Department and of the Young Entrepreneurs Committee. He has also worked as a judge of the Tax and Fees Tribunal of the State of São Paulo.



Sérgio Costa Ravagnani

holds a degree in Law from Universidade de Brasília and a postgraduate diploma in Public Law from Pontifícia Universidade Católica do Rio Grande do Sul, and another in Management and Public Administration from Fundação Getúlio Vargas. He is a Prosecutor for the National Treasury and was the Assistant Deputy Director for Legal Matters at the General Secretariat of the Presidency.



Luis Henrique Braido

holds a degree in Economics from Universidade de São Paulo and a doctorate in Economics from Chicago University. He is a Professor at the Postgraduate School of Economics and Finance of Fundação Getúlio Vargas.

INTERNATIONAL RECOGNITION

In 2019, CADE was once again recognised as one of the top ten antitrust authorities in the world.

CADE's efficiency was attested by the British journal Global Competition Review (GCR), specialized in competition and regulation. The Brazilian authority was awarded four stars in the publication's annual ranking for the seventh year in a row.

The journal, which assesses the performance of antitrust agencies all around the world,

named CADE one of the main competition authorities in Latin America.

The president of CADE, Alexandre Barreto, celebrated the fact that the agency was able to keep its position in the ranking: "CADE's high-quality work being internationally recognised is a great satisfaction. We will continue doing our work to foster free competition in Brazil and around the world."

“

CADE is recognised as one of the ten most efficient antitrust authorities in the world.

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PINCADE

CADE's Exchange Programme, PINCADE, gives undergraduate and postgraduate students from all over the country the opportunity to experience CADE's day-to-day activities, carrying on both technical and procedural work.

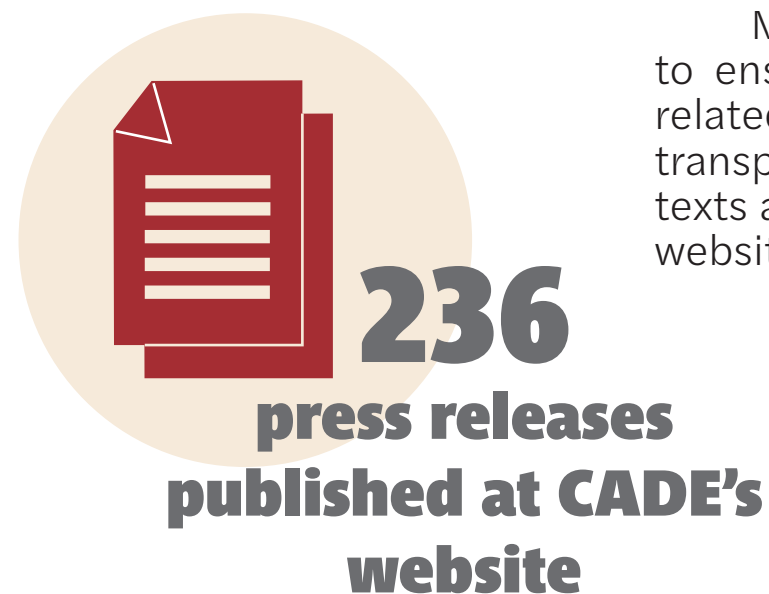
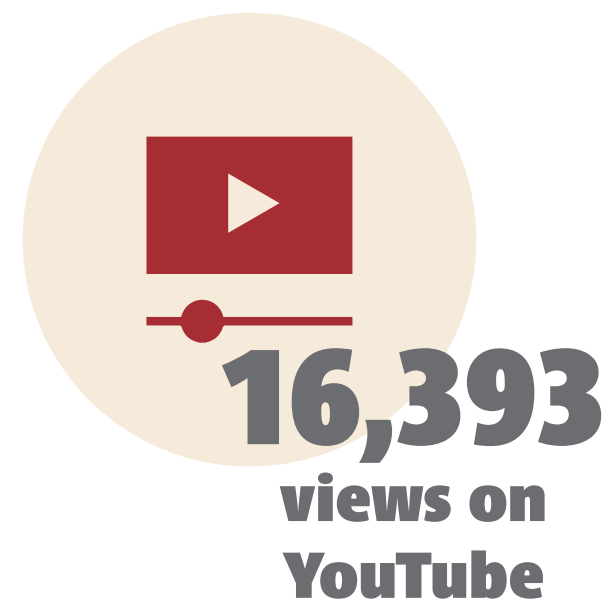
The project has been carried out since 1999, and has involved about 400 students to this date. In 2019, the agency held the 40th edition of the programme, with 106 students who were interested in getting acquainted with and participating in the activities carried out at CADE.

The programme is aimed at disseminating and strengthening the competition defence culture, promoting scientific cooperation, and prompting discussions and academic studies on the subject. It is an opportunity for young talents from every region of Brazil which fosters technical, scientific, and cultural exchange.

As part of the programme, the students selected partake in an Applied Competition Defence Course; study and analyse concrete cases; prepare technical opinions and M&A reports; and work on CADE's current administrative proceedings.



COMMUNICATION WITH THE PUBLIC



Some of CADE's main concerns include keeping its actions transparent and engaging in constructive dialogue with society.

Thus, in 2019, the authority continued dedicating itself to provide the market, the public sector, and citizens in general, with clear and accessible information. Created in 2018, the agency's official Twitter and YouTube accounts have been important channels in advertising competition defence efforts in Brazil.

Through these platforms, the public has access to content related to institutional activities, events, and studies organised by CADE, as well as to live broadcasts of hearings, which increases the public's access to Tribunal decisions.

Moreover, CADE is committed to ensuring the available information related to its actions are accurate and transparent. For that reason, institutional texts are regularly published at CADE's website.

2 public enquiries

- Guidelines for data submission
- Resolution on Administrative Procedures for M&A Assessment (APAC)



817,959

accesses to CADE's website

9 institutional visits

CADE welcomes groups of students who want to know more about the agency's work or attend a hearing of the Administrative Tribunal of Economic Defence. In 2019, nine groups from different academic institutions visited the agency, with a total of 301 students.



Clique Denúncia, CADE's crime reporting platform, received

955

reports

147

messages received by the Ombudsman

CADE granted complete access to information in 54% of cases; partial access was granted in 18.2% of cases; in 5.1% of cases, CADE did not have competence over the matter; and in 22.7% of cases, the requests were denied because either the information was unavailable, it was not included in the provisions of the Access to Information Law, or it was confidential

198

information requests were made to the Citizen Information Service of CADE.

4.84

Days
average response time

According to the dashboard of the Access to Information Law, CADE ranks 16th in response time amongst 305 federal government bodies.

HIGHLIGHTS OF THE YEAR

CADE in the Brazilian Foreign Trade Chamber (CAMEX)

In October 2019, CADE joined the Executive Management Committee of the Foreign Trade Chamber of the Ministry of Economy (CAMEX), indefinitely, as a guest. The agency's admission was made official with the publication of Executive Order 10044/2019, which restructures CAMEX, a government body responsible for policies related to the foreign trade of goods and services.

Once approved to join the Committee, CADE began to aid in the decision-making process related to the defence of competition and commerce (such as anti-dumping measures). Information from CADE's cases and studies might be used to support the analyses by CAMEX, and this sharing of expertise is expected to bring benefits to the work carried out by the government body.

"Our main goal is to unify policies of trade defence and competition defence, which will help with creation and promotion of improved foreign trade policies in Brazil," declared the president of CADE, Alexandre Barreto, referring to the body's acceptance to join the Committee.

According to Executive Order 10044/2019, the Executive Management Committee is the department at CAMEX responsible for setting forth provisional or final anti-dumping and countervailing duties, and safeguards; making decisions regarding suspending the requirement of provisional duties; and establishing guidelines for trade defence investigations.

General Law of Regulatory Agencies

In 2019, CADE achieved an important goal with its inclusion in the scope of the General Law of Regulatory Agencies (Law 13848/2019). After the legislation was passed, CADE was given administrative, budgetary and financial autonomy, in accordance with what the OECD recommended in its latest assessment of CADE's practices and structure.

The law updates the rules for the management, organisation, decision-making, and the general public access to regulatory agencies",

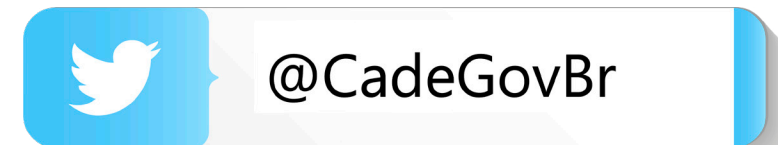
With respect to CADE, the law addresses compliance mechanisms and establishes CADE must adopt internal control and risk management practises, as well as elaborate and advertise an integrity programme, in order to prevent, detect, penalise, and remedy frauds and corruption practices.

The law also provides for increasing transparent practices through three important documents: an annual activity report, pointing out the sectors' compliance with policies in effect; a quadrennial strategic plan containing objectives, goals, and strategic results expected of the agencies' actions; and an annual management plan, which will be the consolidated plan, including actions, results, and goals expected of the agency's management processes and main activities.

The regulation also institutionalises exchanges between regulatory agencies. CADE will be able to request technical advice from other regulatory agencies and, should other agencies ever acknowledge anything that could be an economic crime, they will have to report it to CADE for the appropriate measures to be taken.



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