



**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

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**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN BRAZIL**

**-- 2002 --**

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## BRAZILIAN REPORT ON COMPETITION POLICY

2002

### 1. Introduction

1. The Brazilian Competition Policy System is composed of three governmental entities. The Secretariat for Economic Monitoring - SEAE, the Secretariat for Economic Law – SDE, and the Administrative Council for Economic Defense - CADE. SEAE and SDE are governmental bodies administratively linked to the Ministry of Finance and Ministry of Justice, respectively, whereas CADE is an independent governmental agency.

2. SEAE and SDE issue non-binding technical reports; the latter mainly based on a legal standpoint, and the former mainly based on an economic point of view. Both mergers and antitrust investigations are subject to technical analysis performed by SEAE and SDE<sup>1</sup>, being thereafter forwarded to CADE for judgment. CADE is the ultimate competition body, rendering final decisions on antitrust cases.

3. Brazilian Competition Policy Enforcement was inaugurated in 1962, with the creation of CADE. Notwithstanding, only after 1994 an effective competition policy enforcement has been possible. The implementation of a stabilization plan (Real Plan), in this year, yielded inflation control through the functioning of free market forces, gradual opening of the economy and privatization of state owned assets, in opposition to the scenario of price control, trade barriers, and government enterprises, which made competition enforcement useless in the past. A new competition law, law no. 8,884/94, which transformed CADE into an independent agency, was also enacted in 1994, within the scope of the economic reforms. All these changes significantly enhanced Brazilian Competition System's effectiveness, establishing the "Real plan" as an important milestone in competition policy, and, consequently, the year of 1994, as a turn point date.

### 2. Changes to competition policies, proposed or adopted

4. Some important legal changes took place in the Brazilian Competition Policy System in 2002, considerably enhancing its effectiveness. First it should be mentioned that Ordinance N° 72, promulgated by SEAE (which later on became SEAE/SDE Joint Ordinance N° 1/2003), instituted an early termination procedure with respect to merger reviews. According to this legal provision, some categories of mergers such as joint ventures, enterprises beginning business in Brazil and franchises, among others, do not represent considerable competition concerns. For that reason, these transactions are considered eligible to the early termination analysis procedure.

5. This Ordinance represented a major step to hasten reviews in Brazil, since all mergers before its enactment were subject to the steps outlined in the Brazilian Merger Guideline. As a result, some simple cases without significant competition impacts were subject to a thorough analysis. Consequently, the available time to more complicated cases with significant antitrust concerns was significantly diminished. According to a recent survey, more than 90% of the reviews presented to the Brazilian Competition Policy

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<sup>1</sup> It is important to note that technical reports elaborated by SEAE are mandatory only in merger cases. However, SEAE has the discretionary power to issue non-binding reports also on conduct cases whenever it sees appropriate to do so.

System did not represent a considerable competition threat. This denoted a significant resource misallocation, given that all cases used to be submitted to a thorough analysis.

6. One second important legal provision was the elaboration of a predatory pricing guideline, by the Secretariat for Economic Monitoring -SEAE, through Ordinance n° 70. This initiative represented an effort to define a systematic procedure of analysis for this kind of anticompetitive practice. Among the main advantages brought by the guideline are: i) the increase in outcome predictability, ii) the decrease in the analysis subjectivity, and iii) a higher market transparency. In this context, the guideline has also had an important didactic role by expressing the main analytical concerns while dealing with predatory pricing.

7. Another important legal proposition that took place in Brazil was a draft-law jointly prepared by the Brazilian antitrust authorities and the Central Bank to solve a legal conflict regarding the ability to analyze mergers and anticompetitive practices in the banking sector. At the present moment, the Central Bank claims that it is the institution responsible for this specific task, while CADE argues the same. The draft-law, still pending Congress approval (PLC no. 344/02), stipulates that: a) The Brazilian Competition Policy System will be responsible for merger review in the banking sector, except for the cases where the financial system's stability may be at risk (and the Central Bank will be responsible for the analysis); b) The Brazilian Competition Policy System will be responsible for the analysis of anticompetitive practices.

8. At last, it should be mentioned that representatives of the three antitrust governmental bodies continued the discussion initiated in 2000 regarding a new structure for The Brazilian Competition Policy System. Among other important changes proposed, the new model merges SEAE and SDE into the National Competition Agency. This agency will be an independent body linked to either the Ministry of Finance or to the Ministry of Justice, and CADE will have its role as an independent tribunal emphasized. The director of the agency will have a four-year renewable mandate, while the Commissioners of CADE will have a five-year non-renewable mandate instead of a two-year renewable one, as it is now.

9. SEAE, SDE and CADE also participated in the elaboration of a second bill, which will amend Law. No. 8.884 in order to adapt it to the new conformation of the system and make it more agile and efficient. This proposed amendment introduces also new important features to the law, such as: pre-merger notification system, early termination for simple cases, the participation of the Agency in the trials representing consumers' interests and the definition of cartel as a *per se* injury.

### **3. Enforcement of competition laws and policies**

#### ***3.1 Action against anticompetitive practices, including agreements and abuses of dominant positions***

##### *a) Summary of activities of:*

- competition authorities;
- courts;

10. CADE analyzed thirty cases of possible anticompetitive actions during 2002. Of those, the main accusations were related to collusion (ten cases), abuses of dominant positions (six), exclusivity covenants regarding professional associations (three cases), price fixing among competitors (three), refusal to deal (two), price discrimination (two) and others (four).

11. Among the sectors in which the allegations of anticompetitive practices were more frequent, deserve mention the health insurance plans and medical services associations (seven), gas stations (four) and supermarkets (two).

12. From the total of thirty cases, twelve were found guilty resulting, therefore, in the imposition of fines and other sanctions. Sixteen were considered not guilty, and the cases were consequently closed. One case was terminated before its judgement and another one was sent back to SEAE for further analysis.

b) *Description of significant cases, including those with international implications.*

### **3.2 Medical Associations and Health-Care Plans: The “Unimed” cases**

13. CADE has been analyzing several petitions against the practices of Unimed associations in the last years. Unimed is a medical association that provides health-insurance plans to the public. Although Unimed is widespread in the national territory, each region is financially independent from the others. But all of them are associated in a national organization, called Unimed do Brazil.

14. One of the most common demands against Unimed refers to an exclusivity clause that prohibits its associated physicians from providing services to another health-care company. According to CADE’s view, this practice limits the entry of new firms into the market, creates an obstacle to the existing ones, and limits the access of both kinds of competitors to an important input (the medical services). It is important to notice that the anticompetitive effects of the exclusivity clause depend on the quantity of physicians that are associated.

15. CADE judged three cases regarding Unimed during 2002. In the petition presented by Abraspe against Unimed Campinas, this medical association from the state of São Paulo was found responsible for an anticompetitive conduct in regard to an exclusivity clause. According to the information presented, Unimed Campinas sent letters to its associates conveying the prohibition of having any kind of commercial relationship with an Unimed Campinas rival in the same geographical area, with the possibility of exclusion from the association in case of infringement.

16. CADE considered the practice abusive, taking into account that in the geographical area where the firm is established 42 percent of the physicians are linked to Unimed Campinas. CADE found that the exclusivity condition was an important hindrance to competition, because it puts a limit in the number of professionals that can be hired by rivals. A fine of approximately US\$ 25,700 was charged and the elimination of the provision was required.

17. In a slightly different process, Hapvida charged another Unimed association, Unimed Fortaleza, with fixing prices to its associates when providing services to rival health-care plans. CADE considered this practice as having the same effects as an exclusivity clause, limiting the competition in the region by fixing the price of an essential input. In this case, a US\$ 38,300 fine was imposed.

18. The third case refers to the Unimed Encosta da Serra, an association from the state of Rio Grande do Sul. This process has a special meaning because it represents a change in CADE’s position regarding Unimed’s practices. CADE, in its decision, took into account that the exclusivity condition is against Law n°. 9,656/98, which establishes that every health professional has the right to maintain professional relationships with as many health-care or health-insurance companies as they wish. According to the law, any kind of restrictions in the exercise of the profession, including the exclusivity clauses, are against the law. In addition to the legal provisions, the potential anticompetitive problems were magnified by the fact that Unimed Encosta da Serra encompasses 85% of the health professionals in the geographical relevant market.

19. In an innovative movement towards the creation of better incentives to the medical associations, CADE in the aforementioned case considered that the former fines imposed on Unimed were not sufficient to prevent the exclusivity clauses. Following this line of reasoning, the Council imposed a fine of

approximately US\$ 75,000, more than two times higher than before. An additional fine of about US\$ 96,000 was imposed due to the refusal to provide information requested.

20. But the most important improvement was the decision to open administrative proceedings against Unimed do Brazil, the national entity that represents the interests of all the associations in the country. CADE identified *indicia* that Unimed do Brasil imposes a standard commercial practice to all the sub-national Unimed, an act that is against the Brazilian antitrust law.

21. These harsher actions taken by the Brazilian authorities aim to provide the necessary incentives to put an end to the use of exclusivity provisions, especially harmful to the health services sector.

### **3.3 *Medical Associations: The Coopanest/GO case***

22. In March 2002 CADE imposed restrictions to the Coopanest/GO due to price fixing. According to the petition, this association of anesthetists in the state of Goiás was establishing a uniform price to the services provided by its associates.

23. CADE's experience in dealing with similar cases is clear when considering that any attempt to standardize prices is detrimental to competition, since it ignores all relevant characteristics of particular demands. In this specific case, when an anaesthetist follows a price table to charge for his/her services, it disregards distinct variables like costs, regions and hospitals, among others. Then when the association publishes a price table, it limits the freedom of each associate to determine the price of the service provided, thus affecting the market.

24. It is important to mention that CADE, in this case, did not find evidences that the market power of the Coopanest/GO was insignificant, quite the opposite. The number of associates of Coopanest/GO was even larger than the total number of anaesthetists in the State, which means that the consumers have no other options in the state.

25. Due to these facts, CADE found that the conduct of Coopanest/GO was an attempt to set prices for all the competitors in the relevant market, and imposed a fine of US\$ 27,000 upon the association. In order to give publicity to the decision, CADE also required the association to announce the decision in the main newspaper of the state during two working days.

### **3.4 *White Martins S.A.***

26. In January 2002 CADE decided against White Martins S.A., regarding its practices in the carbonic dioxide (CO<sub>2</sub>) market. The petitioner Messer claimed that White Martins, in an attempt to preserve its monopoly in the production of CO<sub>2</sub>, signed a contract with Ultrafértil, a petrochemical company that produces, among other items, the main input to the production of CO<sub>2</sub> (CO<sub>2</sub> derived from ammonia combustion). This agreement established the exclusivity of White Martins in the purchase of CO<sub>2</sub> inputs by Ultrafértil, for a period of 10 years, renewable.

27. The petitioner argued that this agreement has anticompetitive effects, because it put an obstacle to the entry and development of rivals in the market and it impeded the access of the competitors to an input source. According to its point of view, the quantity bought by White Martins was much higher than its needs. Hence, the company freely disposes the excess into the air, in an evidence that the exclusivity contract with Ultrafértil was just a move to raise the market barriers.

28. CADE's decision was based on several issues. CADE recognized the dominant position of White Martins, which was the sole producer of CO<sub>2</sub> until the Messer's petition was presented to SDE. It is important to mention that, due to the threat of a more profound analysis of the facts, White Martins decided

to review the contract in order to eliminate the exclusivity clause. But this change in the situation was not sufficient to stop the investigation, and the CADE decision was based on the effects of the condition during the time it was in place.

29. CADE's Commissioners also took into account that the alternatives to the Ultrafertil inputs were not competitive, due to the investment costs necessary to build a plant and also the purity degree of alternative inputs (CO<sub>2</sub> obtained by combustion of other kinds of gases). This information was extremely relevant to the conclusion that the exclusivity right over an essential input is detrimental to the competitive environment, because of the barriers to the entry of new players in the market.

30. CADE also did not find efficiencies that could justify the measure, mainly because a significant share of the amounts contracted were freely thrown into the air, without use by White Martins. This indicated that the exclusivity was a strategic movement towards the maintenance of the monopolistic position.

31. CADE's decision was supported by the dynamics of the CO<sub>2</sub> prices. Nearly at the same time as the contract with Ultrafertil was signed, a reversal of the downward trend in the prices could be observed, in an indication that the reduction in the probability of entry into the market made possible an upward pressure in the prices. It is noteworthy that CADE conclusion also mentioned the negative effects of this trend, not just on direct consumers, but for the economy as a whole, due to the migration of the industries that use CO<sub>2</sub> to alternative sources of this product.

32. Concluding this line of reasoning, CADE found that the White Martins practice was against the Brazilian competition laws, applying a fine of 5% of its gross sales in the year before the petition.

### **3.5 *Sindiposto/GO***

33. In October of 2000, SDE initiated an administrative procedure to investigate the coordination among the fuel retailers of Goiânia. The alleged collusive behaviour had been instigated by Sindiposto, the union of fuel retailers in Goiânia, and by its president.

34. During the preliminary investigations, SDE questioned the president of Sindiposto and he admitted to having recommended to the gasoline and alcohol retailers that they should have the same profit margin for gas, alcohol and diesel. Based on this admission, on data indicating that the fuel prices in Goiânia were uniform throughout the city, and on an interview given to the press, where the president of Sindiposto talked about an imminent price increase, SDE initiated the administrative procedure to investigate the alleged coordinated behaviour.

35. Simultaneously, the Public Attorney of the State of Goiás was also conducting a separate investigation that culminated in a civil lawsuit, where he obtained through a judicial order, the wiretapping of the telephone conversations between the representatives of Sindiposto and the retailers. The transcripts of the recordings as well as all the evidence collected at SDE were sent to Seae, where the instruction of the case would be complemented.

36. Through the analysis of the data on prices of fuel, assembled by the National Agency of Petroleum (ANP), SEAE examined the indications of uniform price increases, subsequent to the representatives of the trade association defending in the press, an ideal price for the litre of gasoline in Goiânia. It is worth mentioning that the same behaviour was noticed in January of 2002, despite the preliminary order given by SDE in October of 2000, determining the termination of such practices.

37. In addition, the transcripts of the telephone recordings revealed conversations between the retailers and the trade association representatives where they agreed on fixing prices and profit margins, on common dates for price increases and on how these concerted practices would be monitored.

38. Due to the evidences gathered during the investigation both SEAE and SDE were convinced about the existence of anticompetitive practices, and submitted their reports to CADE.

39. The decision of the CADE Council occurred in June 2002. The Council opted not to take into account the evidences gathered by means of wiretappings, in the view of the fact that the authorization was being challenged in the Courts. Thus the Council determination was largely based on the configuration of the market, the international experience regarding price fixing by unions, and the analysis of the price dynamics before and after the conduct.

40. The Council considered that the conduct represented a serious damage to the competitive environment, and that the union exercised its market power by means of fixing prices and profit margins significantly above the market average. So, the Council determined the end of the practice of price fixing, and imposed a fine of nearly US\$ 70,000. The president of the union was also charged, with a fine of approximately US\$ 35,000. Additionally, the union was condemned to announce the decision in the main newspaper of the region, during three weeks.

### **3.6 Mergers and acquisitions**

*a) Statistics on number, size and type of mergers notified and/or controlled under competition laws;*

41. During 2002, CADE judged 518 M&A cases. From this total, 474 were approved without any conditions imposed by the authority. It is important to mention that CADE imposed fines in 30 cases of this group, because the firms submitted it after the legal time was expired.

42. Nine cases were approved with conditions, most of them requesting changes in provisions of the contracts that share a geographical area among firms or non-competition clauses. The majority of the remaining cases refer to operations that terminated or failed before the final analysis.

43. The distribution of the cases judged by CADE according to the economic sector is the following:

*b) Summary of significant cases.*

44. An important movement observed in 2002 was the adoption of agreements with firms involved in mergers in order to guarantee that the operation would be revertible, if CADE decides at the end of the process to disapprove it or to impose restrictions on it. The so-called APROs (Agreements to Guarantee the Reversal of the Operation) are, then, a commitment of the petitioners before the CADE regarding the steps towards the integration of the operations of the firms. An APRO is designed in order to avoid any permanent changes of the market conditions derived from the merger before the final decision of the governmental authority. The objective is to make easier any divestiture measure that can be imposed by CADE after the final determination.

45. Four APROs were signed between CADE and the petitioners during 2002. All of them involved firms with a significant position in the relevant markets. A brief summary of these cases is presented bellow:

### **3.7 *Novo Nordisk Holding do Brasil Ltda. and Biopart Ltda.***

46. In December 2001 Novo Nordisk acquired the control of Biopart Ltda. at Biobrás, the sole producer of insulin in the Brazilian market. The acquiring firm, Novo Nordisk, is the major exporter of insulin to Brazil. The act of combining the sole producer in Brazil with the major exporter within the same company raised concerns in SEAE which, in March 2002, requested the adoption of a provisional measure by CADE in order to bring the process of acquisition to a standstill before the final decision.

47. In order to maintain the possibility of reverting the operation after the analysis of the Brazilian antitrust authorities, CADE and the petitioners signed, at the end of March 2002, an APRO. According to this agreement, the companies committed themselves to refrain from any movement towards the integration of activities, including transfer and disposal of assets, changes in the portfolio of products and trademarks, and management measures that could lead to the dismissal of the workforce. The petitioners also agreed not to alter the distribution and marketing policies.

48. In order to oversee the implementation of the agreement, monthly reports are being sent to and analyzed by the CADE staff and a fine of 0.5 percent of the annual gross sales was imposed in case of breach.

### **3.8 *Nestlé Brasil Ltda. and Chocolates Garoto S/A***

49. In March 2002 SEAE requested CADE to adopt a provisional measure regarding the acquisition of the total shares of the Chocolates Garoto S/A by Nestlé Brasil Ltda. Seae concerns were based on the significant degree of concentration in the chocolate market after the acquisition, the lack of competitive pressure derived from the imports and the grouping of two of the three main chocolate brands in a market in which this variable is fundamental.

50. In accordance with Seae worries, CADE decided to propose to the petitioners an agreement in order to maintain the competitive conditions until the final decision. The provisions of this APRO were almost the same as the Novo Nordisk and Biopart ones. The main difference was the determination to contract an independent auditing firm to elaborate the reports to be sent to CADE.

### **3.9 *Companhia Brasileira de Bebidas (CBB) and PepsiCo, Inc.***

51. This is related to a licensing contract resolving that CBB would produce, distribute and market the beverage "Gatorade" in the whole country. In a preliminary analysis, Seae concluded that the horizontal concentration in the relevant market would be above 90% after the contract. In order to preserve the competitive conditions until the final determination of CADE, the petitioners agreed to refrain from any plan to close down plants and dismiss production workers and to maintain independent marketing policies. Furthermore, any exchange of information regarding the product formula would be considered an infringement to the agreement.

### **3.10 *Companhia Brasileira de Distribuição and Jerónimo Martins, SGPS, S.A.***

52. This case refers to the acquisition of the fourth Brazilian supermarket chain (Sé Supermercados, owned by Jerónimo Martins) by the leader in this market, Companhia Brasileira de Distribuição. The significant presence of the companies at the São Paulo state, particularly in the capital, and the increase in the market share of the leading company, at least in a preliminary view, raised concerns about the possibility of abuses of dominant positions.

53. The agreement (APRO) signed between CADE and the petitioners determined that the firms would not close down any supermarket store of the acquired company, also keeping the names of the

stores. The assets of the acquired company could not be transferred to the acquiring firm without the replacement with others of the same quality. The number of employees would also be stable, in such a way that the relation of overall sales per employee would be in accordance with the average of the top ten firms in the Brazilian market. The acquired company also commits itself to uphold the percentage of the products sold with its own brand “Sé” (1.6% of the overall sales). In order to help the monitoring of the operation by CADE, the firms would have to send quarterly reports to the authorities.

54. This APRO was established in August 2002, and has the same objective to preserve the chances of reverting the operation if CADE so concludes after its analysis.

#### **4. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies.**

55. Even though the Brazilian law does not grant authority for antitrust agencies to operate in formulating or implementing other policies, antitrust agencies adopt the stance of being the “competition advocate”. This consists in being proactive within the government institutions, in order to eliminate incompatible legal provisions or policies with the competition principles.

56. Within this scenario, SDE, SEAE and CADE have maintained close contacts with regulatory agencies establishing joint cooperation agreements to ensure that antitrust concerns will be considered by these entities in their public policies. The information exchange and coordination among antitrust authorities and regulatory agencies has considerably developed in recent years.

### **5. Resources of competition authorities**

#### **5.1 Resources Overall**

##### *a) Annual Budget\**

<b>Secretariat for Economic Monitoring (SEAE)</b>	<b>Secretariat for Economic Law (SDE)</b>	<b>Administrative Council for Economic Defense (CADE)</b>
<i>US\$ 2,100,000.00</i>	US\$ 4,612,653.00	<i>US\$3,435,000.00</i>

\* The amount reserved for salaries is not included in this sum.

##### *b) Number of Employees*

<b>Secretariat for Economic Monitoring (SEAE)</b>	<b>Secretariat of Economic Law (SDE)</b>	<b>Administrative Council for Economic Defense (CADE)</b>
Economists: 45	Economists: 6	Economists: 9
Lawyers: 4	Lawyers: 14	Lawyers: 32
Other professionals: 22	Other professionals: 6	Other professionals: 29
Support Staff: 148	Support Staff: 10	Support Staff: 73
All Staff Combined: 219	All Staff Combined: 36	All Staff Combined: 143

**5.2 Human Resources**

a) *Enforcement against anticompetitive practices*

<b>Secretariat for Economic Monitoring - SEAE</b>	<b>Secretariat for Economic Law - SDE</b>	<b>Administrative Council for Economic Defense - CADE</b>
SEAE assigns 8 professionals for anti-cartel enforcement.	17 professionals	CADE does not assign a separate staff for anti-cartel enforcement.

b) *Merger Review and Enforcement*

<b>Secretariat for Economic Monitoring - SEAE</b>	<b>Secretariat for Economic Law - SDE</b>	<b>Administrative Council for Economic Defense - CADE</b>
SEAE assigns 59 professionals for merger control and other anticompetitive practices.	6 professionals.	CADE does not assign a separate staff for merger control.

c) *Advocacy Efforts*

<b>Secretariat for Economic Monitoring – SEAE</b>	<b>Secretariat for Economic Law - SDE</b>	<b>Administrative Council for Economic Defense - CADE</b>
SEAE does not assign a separate staff for advocacy efforts.	SDE does not assign a separate staff for advocacy efforts.	CADE does not assign a separate staff for advocacy efforts.

**5.3 Period covered by the above information: The year of 2002.**

**6. Summaries of or references to new reports and studies on competition policy issues**

57. Brazilian antitrust authorities had a very productive year with respect to the elaboration of reports and studies. We outline, below, the main initiatives in this regard.

- 1) *The Political Economy of Antitrust in Brazil: From Price Control to Competition Policy.* - This paper discussed the political economy of antitrust in three main aspects: first, outlining the historical background of the effort of building a competition law in Brazil. Second, by describing the present situation of competition law enforcement in the country. Finally, the paper discussed some political economy aspects of antitrust enforcement.

- 2) *Competition Advocacy in Brazil – Recent Developments.* – During the past three years, SEAE and the three other agencies of the SBDC, have concentrated efforts in disseminating competition values within the government and throughout the Brazilian civil society. The competition advocacy role performed by the antitrust authorities has encompassed a variety of initiatives that ranged from an intensive campaign in the media, to participation in task forces different governmental bodies. The paper examines the importance of these initiatives for the development of a competition culture in Brazil, where, until very recently, the economic model was based on price controls and import substitution.
- 3) *The Brazilian Experience on International Cooperation in Cartel Investigation.* – Cartel investigation is increasingly becoming an international activity and, therefore, effective cooperation among antitrust agencies around the world becomes more crucial. Firms engaging in collusion are frequently established in more than one country and the effects of such activity, as well as the evidence related to it, are often dispersed among different countries. The paper shows the cooperation received by Brazilian antitrust authorities in some of its major cases. The cases in which international technical assistance was received are described, illustrating how the aid contributed to its final outcome.
- 4) *Substantive Criteria Used for the Assessment of Mergers in Brazil.* – The paper compares the different decisions on merger reviews according to the use of three different tests: the Substantial Lessening of Competition Test (SLC), the Dominance Test or the Public Interest Test. It states that despite the fact that the Brazilian laws contemplate the Dominance Test and the Public Interest Test, the SLC Test tends to prevail. Some conclusions are derived with respect to the different outcomes of the use of one test instead of the others. The main conclusion of the paper is that the choice of one test in detriment to other does not cause any significant difference in the result of the merger review.
- 5) *The Importance of Communications: Enhancing Competition Advocacy in Brazil.* – Brazil has a long history of state intervention in the economy. The scenario of price control, trade barriers, and government enterprises, hindered competition enforcement in the past. Only after 1994 an effective competition policy enforcement has been possible in Brazil. The implementation of an economic stabilization plan in this year, yielded inflation control through the functioning of free market forces, gradual opening of the economy and privatization of state owned assets. A new competition law, law n. 8.884/94, which transformed CADE into an independent agency, was also enacted in 1994, within the scope of the economic reforms. All these changes significantly enhanced Brazilian Competition System's effectiveness, establishing the year of 1994, as a turn point date. After eight years of competition policy, it is too early to state that competition represents a value within the Brazilian society. The communications strategic positioning is perceived by Brazilian antitrust authorities as an important ally. In this context, it has been playing a major role in strengthening the "competition culture" and, as a consequence, in increasing the compliance level with competition law provisions.
- 6) *Some Lessons on the Antitrust Procedures in the USA for the Brazilian Competition Defense System.* – The paper compares antitrust procedures in Brazil and in the USA. From this perspective the paper presents some suggestions to Brazilian Antitrust authorities, particularly regarding cartels.
- 7) "Note by the Brazilian Delegation – Contribution from CADE". In OECD. *Roundtable on Competition in the Electricity Sector*. Note prepared by the Commissioner Cleveland Prates Teixeira and the economist Bruno Carazza dos Santos.