

Digital Markets Guide - Competition law in Brazil

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Brazil's antitrust authority, the Administrative Council for Economic Defence (CADE) has been paying increasing attention to matters involving digital markets. In the past couple of years, CADE has released two work documents summarising both national and international discussions on the matter, with the goal of making foreign and domestic practice more accessible to its staff and to the public. According to its recently appointed chair Alexandre Cordeiro, CADE is vigilant of the issues that a digital economy has brought to the antitrust authority, but also careful not to deter innovation in fast-paced markets, while keeping the consumer welfare standard as its guiding principle.[2]

It is important to highlight that there is no consensus on what qualifies as a 'digital market' from the perspective of Brazilian competition law enforcement. CADE's latest work document discussing digital issues addressed decisions in all markets in which there is some type of 'platform' connecting two or more groups of clients over the internet, even if the cases did not specifically involve a discussion about a digital aspect of the business. As the global economy evolves towards an increasingly more digital world, however, an ever-growing number of business transactions is carried out through the internet, which means that nearly all markets already have or will at some point have a digital aspect to them, broadening the scope of what could potentially qualify as 'digital'.

Discussions about digital markets in Brazil to this point have therefore tended to aggregate many different business models, such as internet searches, advertising, ridesharing, hardware, software, retail, etc. For the purposes of this Chapter, the selection of cases mentioned focuses on relevant competition assessments centered on a predominantly digital company or business (that is, one which relies mainly on the internet to operate, e.g., Uber's ride-sharing, Google's search and advertising services). Our analysis extends to cases in which final decisions had been issued by 31 August 2021.

Merger cases with a digital aspect

Brazil requires mandatory notification to CADE of a broader range of transactions in addition to full-blown mergers, also including certain minority share acquisitions, creation of joint ventures and consortia, and certain strategic partnerships or collaborations among competitors creating a common enterprise between competing companies (associative agreements), which are jointly referred to as 'concentration acts'.[3] In this section, we use 'merger case' broadly to refer to all types of transactions that are reportable under the Brazilian merger control regime, even if they are not

acquisitions per se.

Out of the 143 merger cases analysed by CADE involving digital platforms described in CADE's work document, since 2000, 86 per cent were subject to a fast-track analysis, with only 14 per cent of these cases undergoing the non-fast track (ordinary) procedure (comparable to the European Union's long form review); out of these cases, only two were subject to remedies.

In these two cases, the remedies applied in one of them were not related to any digital aspect of the business,^[4] and therefore will not be considered for the purposes of this Chapter. In the next item, we provide an overview of the other case, which concerned debates over the disruptive potential of a digital company.

Itaú/XP case: minority investment in a disruptive company

XP Investimentos S.A. (XP) is a NASDAQ-listed company that pioneered the investment platform model in Brazil, inspired by the US's Charles Schwab Corporation. It gained traction in particular after 2015, and, in 2017, Brazilian retail banking group Itaú Unibanco S.A. (Itaú) notified CADE of its intention to acquire 49.9 per cent of the total shares of XP Group's holding company (an initial acquisition of 30.1 per cent of its voting stock, with a possibility of increasing this stake to up 49.9 per cent of voting stock in the future, in any case without gaining control over XP).

In its analysis of the proposed minority acquisition, CADE expressed concerns that the acquisition could hinder competition between investment platforms, particularly because, by offering investment options from multiple distributors, XP had disrupted the traditional investment model in which consumers invested only in proprietary products offered by their retail banks.

Although the shareholders' agreement to be executed between Itaú and XP's shareholders limited some of the powers Itaú would hold over XP after its investment, CADE still deemed it necessary to apply remedies to preserve competition among investment platforms by limiting certain practices that it understood could raise barriers to entry in the segment.

CADÉ thus decided to apply remedies despite the transaction's lack of horizontal overlap or significant market shares; the majority decision issued by Commissioner Paulo Burnier emphasised that XP's position as a disruptive player in a two-sided market required an analysis beyond traditional concentration indices to preserve the competitiveness of the investment platform model.

The remedies adopted, however, did not directly relate to Itaú's rights over XP, as CADE was satisfied at the time that the proposed shareholders' agreement limited Itaú's ability to shield itself from the competitive pressure XP originally posed over traditional banking services.

In the agreement on behavioural remedies ultimately signed with CADE, Itaú agreed to treat competing investment platforms fairly, without discrimination, and to refrain from directing its banking clients towards XP. XP, on the other hand, undertook certain obligations against the use of exclusivity clauses with its distribution network (a practice that predated the transaction) and other measures aimed at reducing barriers to entry for competing investment services, even if some of them had no direct causal

link with the minority shareholding acquisition by Itaú.

Despite its initial intention to increase its shareholding in XP, in late 2020, Itaú announced its intention to sell its stake in XP, and in early 2021 both companies defined how this sale would take place after the appropriate regulatory approvals, so that Itaú will no longer hold any interest in XP.

In any case, to date, this was the most prominent merger case in which CADE expressly stated its concerns about potential competition posed by a digital service, particularly as a justification to extend its analysis beyond market shares and impose remedies that related to competitive conditions in the market.

Other merger decisions

As mentioned above, CADE analyses most of the 'digital' merger cases under a fast-track procedure, which makes most of its decisions on these matters simpler, namely without an in-depth review, as such cases often can be cleared on a first-look basis.

CADE's decisions on internet search tools

CADE's two merger cases concerning search services date back to the 2000s: the Google/DoubleClick case, and the Microsoft/Yahoo case.^[5] Both cases analysed both aspects of a internet search service, that is, its search functionalities to the final user and its advertising offerings.

In the 2007 Google/DoubleClick case, CADE defined the affected relevant market as the national market for 'ad serving', which would be vertically related to digital search services. CADE understood that there could be concerns related to the search services obtaining unfair competition advantages owing to their vertical integration with the ad-serving activities, but ultimately concluded that there were no grounds for intervention in that case. This conclusion was due to the fast pace of innovation in the market, the existence of strong rivals such as Microsoft offering its own search services, and that a search engine manipulating its results would likely lead its users to start conducting queries in higher quality services.

While the analysis of the Google/DoubleClick case was eminently vertical, in the 2009 Microsoft/Yahoo case, CADE analysed the horizontal overlap between Bing and Yahoo's search tool. At that time, CADE already found that there are significant returns to scale in the search market, as the more queries are conducted in each service, the more these queries can be used to improve future ones. In that case, CADE concluded that the merger between Bing and Yahoo could result in gains to improve the resulting company's ability to compete with Google's search tool and approved the case without restrictions.

Since then, CADE has not assessed any other mergers in the digital search segment, but it came back to review the market for digital searches again in the 2018–2019 decisions in the Google anticompetitive conduct investigations, detailed below.

CADE's decisions on social networking services

CADE has analysed cases involving social networks on few occasions:

Microsoft's 2011 acquisition of Skype and its 2016 acquisition of LinkedIn.[6] In the first case, CADE defined a relevant product market as the market for instant messaging services, with a worldwide global dimension. In the second one, CADE left the relevant market dimensions open, indicating that the fact that LinkedIn was focused on professional contacts mitigated concerns resulting from the transaction.

CADE's decisions on video-on-demand services

CADE first reviewed the video-on-demand segment during the 2017 AT&T/Time Warner merger, an analysis that was further detailed in the context of Disney's 2018 acquisition of Fox.[7] In both cases, although CADE acknowledged that video on-demand services may represent some form of competitive pressure over traditional paid television (pay TV) channels and operators, it ultimately decided in the Disney/Fox case to not include video-on-demand services in the same relevant market as pay TV, thereby limiting its analysis of the case to pay TV only.

In 2020, CADE upheld the segmentation between video-on-demand and pay TV in its fast-track analysis of a case involving Warner's HBO;[8] on the other hand, in a 2021 case, it also assessed a scenario comprised of both video on demand and pay TV services.[9] In the Amazon/MGM case, CADE's General Superintendence upheld the previous practice of segmenting video on demand services.[10] This was, however, an analysis under the fast-track procedure, so it is possible that in future cases that require a more in-depth analysis, CADE acknowledges different or evolving market conditions as this sector undergoes fast-paced changes.

Investigations and decided cases

Initially, we highlight that there are no cartel, coordination or collusion investigations currently being carried out by CADE with a digital aspect. This section, therefore, focuses on vertical and unilateral conduct investigations.

Brazil applies an effects test (which is like other jurisdictions' 'rule of reason') to vertical and unilateral conduct cases, requiring a case-by-case analysis of the economic conditions in which a given conduct takes place. Given the differences between the context and business models analysed in each case, CADE's conclusion in a specific setting should, therefore, not be understood as binding for future investigations. Even though CADE usually observes its past decisions when assessing a new case, it may deviate from its previous conclusions should it find that the new facts or economic conditions differ from previous ones.

Google cases

Between late 2018 and 2019, CADE closed three cases against Google without any penalties. These cases had been opened between 2011 and 2013 following complaints by Microsoft and Buscapé (a Brazilian price comparison site). There are still two open investigations against Google under way. In this section, we describe each of them.

Google AdWords API case

The first closed case, which was based on a complaint by Microsoft,[11]

concerned the terms and conditions of the API related to Google's AdWords (now Google Ads, Google's text search advertising tool). The API was key in allowing automatic management of campaigns by developers, and Microsoft claimed that certain clauses of its terms and conditions restricted their ability to multihome across different search advertising services. CADE ultimately closed the case because it found no indication of said restrictions to multihoming, particularly considering that all ad agencies and advertisers that responded to its requests for information reported having no issues in multihoming due to these terms and conditions.

Google Shopping cases

The second closed case, which followed similar complaints by other price comparison sites in other jurisdictions, concerned Google Shopping, particularly the rich product results Google displays in its general search results whenever it identifies that a user is searching for products.[12] These results feature a particular product offer in a third-party website with a picture and their price and are usually displayed in the top of the search results page above text results. Price comparison site Buscapé filed a complaint to CADE arguing that this format unfairly gave preference to Google's own price comparison tool, Google Shopping, and excluded rivals from accessing a similar format.

After an eight-year proceeding that included a detailed economic study by CADE's Department of Economic Studies (DEE), CADE ultimately decided to close the case after a tie among the six commissioners and CADE's chair exercising his casting vote in favour of closing the case without penalties.

The majority decision was grounded in DEE's economic study, which did not find evidence of a causal link between Google's conduct and actual harm to price comparison sites, a fact highlighted by the decision as a key difference between the case in Brazil and the similar complaint in Europe. Additionally, the majority decision also found that there were reasonable justifications for Google's rich shopping results based on evidence that they benefited consumers. Additionally, CADE's chair emphasised that there was no clear remedy to be applied to the case other than having CADE design Google's product, and that antitrust intervention should be carefully weighed, especially in fast-paced developing markets, to avoid overdeterrence. Given the lack of clear evidence of harm to competition caused by Google's conduct and a clear-cut remedy to the case, it was closed without any penalties or remedies.

Still regarding Google's rich results, in 2016, local results website Yelp brought a similar complaint to that of the Google Shopping case, arguing that Google unfairly gave preference to its own local results by displaying them in a prominent position in the search results page including rich features such as a map. This case is still ongoing before CADE's General Superintendence.[13]

Use of third-party content cases

The last case CADE closed was a separate complaint brought by Buscapé during the Google Shopping case in which it claimed that Google was 'scraping' (i.e., unfairly automatically crawling and collecting) product reviews from the Buscapé website and displaying it in Google Shopping. CADE also closed the case because it found there was no evidence of such reiterated

conduct on Google's part, and that the limited evidence Buscapé had produced of some of its product reviews being displayed in Google Shopping were owing to a technical error (which still attributed their source to Buscapé). Absent evidence of the conduct, CADE decided to close the case without penalties.

Nevertheless, over the course of this case concerning 'scraping' in product reviews, CADE received some complaints from press publishers claiming that Google would unfairly benefit from the display of their news content, thereby diverting traffic and ad revenue from their pages. CADE decided to open a separate investigation into this matter, which is currently ongoing before CADE's General Superintendence.[14]

Uber cases

Uber launched in Brazil in 2014, and, although at the time there were already some relevant apps intermediating the connection between taxi drivers and passengers, Uber was the first mobility app offering private ride-sharing instead of connecting the user to a taxi driver. This launch disrupted private passenger transportation in Brazil, as well as elsewhere, and this disruption resulted in four separate claims to CADE between 2015 and 2016 involving Uber's activities.

Cases against Uber

Out of the cases against Uber, there were two very similar ones offered by the Brazilian Chamber of Deputies' Consumer Defence Commission and by an association of taxi drivers claiming that Uber would be engaging in unfair competition by offering 'individual private passenger transportation services' without having to comply with national and municipal regulation applicable to taxi services.[15] This claim was grounded on the fact that existing regulation on private transportation services applied only to taxis, but not to private cars (likely because ridesharing had never been a widely adopted practice requiring regulation).

CADE's General Superintendence closed both cases in 2015 and 2017 without any penalties; in both decisions, it found that Uber's market entrance had pro-competitive effects instead of causing harm to competition. It also emphasised that CADE did not have the mandate to regulate Uber's activities, as this was an attribution of the federal and municipal legislative powers. The mere fact that there was asymmetric regulation over different players, therefore, was not sufficient to find a competition violation.

In 2016, CADE also received two separate claims by one citizen and the state of São Paulo public prosecutors against Uber's pricing practices, claiming that Uber's algorithm would act by unlawfully coordinating prices among private drivers, promoting an artificial price control at a predatory pricing level, which led to a single investigation opened that year.[16]

CADE's General Superintendence also closed this case without any penalties. First, it did not find evidence of predatory pricing, since there was no evidence of sustained losses suffered by Uber drivers, and therefore there was no evidence of prices set below drivers' marginal costs. Regarding the coordination claims, CADE found that (1) there was no evidence of express or tacit cartelisation between Uber drivers; and (2) even if Uber's business model

sets drivers' prices, there was clear evidence that this business model had benefitted consumers and promoted competition, and therefore could not be deemed anticompetitive. CADE's General Superintendence did, however, issue a non-binding recommendation for ridesharing apps to reconsider their pricing model to allow drivers to have greater pricing freedom.

Case moved by Uber

Uber, alongside a law school's student group, in 2017 filed a sham litigation complaint before CADE against taxi drivers' associations, targeting lawsuits moved by the latter against Uber's business in Brazil, as well as other intimidatory conduct that taxi drivers would have adopted against Uber drivers.[17]

CADE's Tribunal closed Uber's case against the taxi drivers' associations in 2017 because it found that the latter's claims to the judiciary power were a legitimate attempt at solving a regulatory void and did not meet the threshold to be considered 'sham' claims. CADE also found there was insufficient evidence of the intimidatory conduct to convict the drivers for an antitrust violation.

Despite neither Uber nor Uber's sham litigation claim having resulted in penalties, in 2018 CADE's DEE issued a work document titled 'Competition effects of a shared economy: did Uber's market entry affect the market of taxi apps between 2014 and 2016?',[18] in which it conducted an economic study over transportation services in 590 Brazilian municipalities. In this document, CADE found that taxi drivers initially lost an average of 56.8 per cent of their rides in those cities in which Uber launched. It also found, however, that over a longer period of analysis (comprising at least two years), Uber and taxi prices became competitive against each other, ultimately leading taxi drivers to recover the lost rides by offering discounts and other price reductions. DEE's conclusion was that Uber's market entry solved some market failures of the traditional private transportation market, and that it could even be possible to assess deregulating taxi services to ensure their greater competitiveness.

Online Travel Agencies MFN case

In 2016, a group of hotels filed a complaint against online travel agencies Booking.com, Decolar.com and Expedia, claiming they were applying abusive most-favoured nation (MFN) clauses preventing hotels from offering better

prices on any competing services. In 2017, all three travel agencies requested to negotiate cease-and-desist agreements with CADE, which were ultimately approved by CADE's Tribunal in 2018.

All three agreements foresaw similar conditions: the travel agencies committed to cease the requirement of the 'broad' MFNs, that is, those that apply to all third-party websites, but were allowed to continue applying 'narrow' MFNs, which prevent the hotel from offering lower prices in metasearch websites (such as Tripadvisor and Trivago, which are not travel agencies per se)[19] and in their own websites. CADE found there were legitimate justifications for allowing narrow MFNs, particularly related to the prevention of the freeriding effect (in which the user finds the hotel via a travel agency but ultimately books at the hotel's own website, so that the travel agency is not properly compensated for the matchmaking).

There were no fines, and the travel agencies did not formally acknowledge or confess that their practices could have anticompetitive effects (as neither of these are required by Brazilian law in vertical cases), but the agreements resulted in a change in their contractual practices.

iFood and Gympass exclusivity cases

CADE is currently investigating exclusivity requirements imposed on business partners by two services that intermediate the matchmaking between their user and a business: iFood and Gympass.

iFood is the main food delivery app in Brazil, offering users a broad range of restaurants and supermarkets from which they can order food to be delivered to their door or to pick up in store. It was the first food delivery app to reach relevant scale in Brazil. In 2020, rival delivery app Rappi filed a complaint against iFood, claiming that it required exclusivity from many restaurants, preventing them from registering in competing apps and thus hampering rivals' ability to develop their businesses.

Gympass, on the other hand, is a membership service that offers users the possibility to access many local gyms and fitness classes by paying a single monthly subscription, being the first business of this kind to be launched in Brazil. In 2020, its rival Total Pass filed a complaint before CADE challenging Gympass' exclusivity requirements with gyms, which would prevent them from registering with competing services and thus hinder their development. Both cases are still ongoing, and both have in common the fact they target vertical restraints practiced by innovative digital players who were responsible for launching innovative business models related to digital markets in Brazil.

Digital acquisitions inquiry

Following other jurisdictions' concerns with acquisitions of innovative businesses not meeting the relevant thresholds for submissions (particularly in the case of start-ups, which are often nascent or small businesses), in July 2020, CADE asked 19 companies to provide a detailed list of mergers, acquisitions and other 'concentration acts' in which they took part over the 10 previous years.[20]

These requests were sent to the following Brazilian and global companies: Amazon, B2W Digital, Booking.com, Google, iFood, Mercado Livre, Magazine Luiza, Facebook, Netshoes, Twitter, Microsoft, Submarino Viagens, Apple, Uber, 99, Via Varejo, Walmart and Tencent.

Since these companies replied to the requests in August 2020, there have been no further public developments on the case; public statements to the press, nonetheless, indicated that CADE's goal was not to impose penalties on these acquisitions, but rather to analyse market trends to improve CADE's enforcement tools for future cases.[21] It is not clear which will be the public result of this inquiry, as it has not been detailed in CADE's recent work documents concerning digital matters, which will be detailed in the following section.

Competition policy and advocacy initiatives

In the last two years, CADE has published two specialised working papers associated with digital matters. The first was published in August 2020 and titled 'Competition in Digital Markets: a review of expert reports'.[22] Its goal was to summarise the key issues covered by reports published in other jurisdictions discussing competition in digital markets, including, but not limited to, the Final Report by the Stigler Committee on Digital Platforms,[23] the report on Competition Law and Data by the French and German antitrust authorities,[24] the Final Report of the Australian Consumer and Competition Commission's Digital Platforms Inquiry[25] and others, totalling 21 expert documents.

In this work document, which did not provide CADE's position on any of the issues, CADE aimed at 'summarizing to CADE and to Brazilian society the view of its international peers and grounding the improvement of CADE's internal policy-making and technical and scientific update'.[26]

A year later, in August 2021, CADE published its second work document on digital markets, this time summarising its own internal practice with 'digital platform' businesses over two decades. The title of this new work document, which is only available in Portuguese, can be translated as 'CADE Report – Digital Platform Markets', and describes over 100 merger and conduct cases decided by CADE since as early as 20 September 2000 until November 2020. It covers sectors ranging from sporting goods retail to ride-sharing, financial services and fitness apps. The common feature for CADE to select these cases was that the companies involved in each case offered some type of 'platform' (understood as a service which connects two or more different groups of users for a given purpose, transactional or not),[27] even if this service was not the focus of the competition analysis in the relevant case. Because it covers CADE's practice over the two decades in which internet access became widespread and new business models launched, it ends up providing a portrait of this innovation process as it describes analyses conducted under very different market conditions.

The goal of these studies was to organise the scientific production and CADE's decisions related to the digital economy so that they become easily accessible to the public and to other government bodies, so that this knowledge can lead to better informed decisions and policymaking.

Within the Brazilian competition defence system, however, CADE is not the only body responsible for competition advocacy. This legal mandate is also cast upon the Brazilian Ministry of Economy's Secretary of Competition and Competitiveness Advocacy (SEAE). In 2021, SEAE's main activities have been conducting public consultations to assess the competition conditions in infrastructure markets and to assess the existing regulatory burden over private entities. None of its public activities were directed at digital markets.

CADE's advocacy initiatives are therefore not the main focus of its legal mandate and are often grounded on discussions and matters under review in the context of a concrete case (such as in the Uber cases discussed above which resulted in an economic study providing policy recommendations for the legislative power regarding the regulation of taxicabs). CADE sometimes forwards its decisions to other authorities with requests, recommendations or simply for their information, with the main goal of promoting competition, based on the strategic vision which will be further detailed below.

Institutional issues such as the strategic vision

In mid 2021, CADE's two main leadership positions, that of General Superintendent and that of Tribunal Chair, were set to become vacant: both the mandates of the previous Superintendent Alexandre Cordeiro and of the previous Chair Alexandre Barreto expired in July 2021. This indicated a possibility of a shift in CADE's command, and, therefore, of its institutional policy (particularly as Barreto and Cordeiro had been appointed in a previous administration within the federal government).

The Brazilian government, however, maintained both Cordeiro and Barreto in CADE's leadership positions by shifting their seats: Alexandre Cordeiro was nominated as CADE's new Chair, and Alexandre Barreto as CADE's new General Superintendent. While Cordeiro's nomination has already been confirmed by the Brazilian Senate and he has already taken office, Barreto's nomination is pending confirmation.

Since his nomination, Alexandre Cordeiro has given many interviews to the press in which he declares the institutional position he plans to maintain as the new Chair. In these interviews, he emphasises that antitrust analysis should be limited to its legal mandate of protecting competition, and that this should not be mixed with separate concerns such as the defence of privacy, labour or the environment. According to him, even though these are also valid concerns, they have been legally assigned to other authorities (e.g., the National Data Protection Agency (ANPD)) and not to CADE. Thus, CADE's role regarding these other issues is to cooperate with these authorities to ensure they can properly conduct their work, but not to directly intervene in these matters. He cites a recent example of CADE's cooperation with ANPD to assess changes in WhatsApp's privacy policy as an example of this successful interface between competition and data protection authorities.[28]

Cordeiro has also stated that his view of 'competition defence' is to defend competition as a manner to protect consumer welfare by preventing abuses

of market power ensuring fair prices and product quality, and that he does not subscribe to other jurisdictions' intention to 'return to a Pre-Chicago School moment'.^[29] Further, he has expressed wariness of excessive intervention in innovative markets,^[30] and that he does not believe that efficient companies should be penalised owing to their organic growth; although there is a global trend towards concentration, he suggests this is not in itself negative if there is, for instance, a high level of rivalry among the existing companies.^[31]

Still, he emphasises in all interviews that CADE is keeping a close eye on digital discussion points, such as the use of algorithms and if it can facilitate collusion, impact consumer choice or generate unfair competitive advantages, and that it will intervene should it find any conditions that show that consumer welfare has been harmed.^[32]

*Authors: Barbara Rosenberg, Marcos Exposto and Julia Krein.

**This article belongs to GCR Digital Markets Guide - Second Edition, click here and find out more.

Notes

2 Since his nomination was confirmed by the Brazilian Senate on 7 July 2021, Mr Cordeiro has given many interviews to the press stating his views on the goals of Brazilian antitrust policy, including those involving digital markets. See, e.g., his interview to Reuters, as published by Istoé Dinheiro on 19 July 2021, at:

<https://www.istoedinheiro.com.br/entrevista-conglomerados-formados-por-big/> and his 19 July 2021 interview to CNN at

<https://www.cnnbrasil.com.br/business/cade-deve-intervir-o-minimo-possivel-no-mercado-diz-novo-chefe-da-autarquia/>. See also his 14 July 2021 interview with Brazil Journal, available at:

<https://braziljournal.com/no-cade-um-novo-xerife-cauteloso-com-os-remedios-que-aplica>.

3 Per Articles 88 and 90 of Law No. 12,529/11; Articles 9 and 10 of CADE's Resolution No. 2/2012, CADE's Resolution No. 17/2016.

4 The case concerned the acquisition of Nike's Brazilian branch by sports retailer Centauro, including a distribution arrangement with Nike's headquarters by means of which Centauro would become Nike's exclusive distributor in Brazil. CADE applied remedies to separate Nike's business from that of Centauro to prevent vertical restraints against other competing retailers, a remedy that applied equally to digital and brick-and-mortar

operations, without any particular digital concern. See Merger Case No. 08700.000627/2020-37 (Grupo SBF S.A/Nike do Brasil Comércio e Participações Ltda).

5 Merger Cases No. 08012.005304/2007-11 and 08012.006419/2009-94.

6 Merger cases No. 08012.006188/2011-33 and 08700.006084/2016-85.

7 Merger cases No. 08700.001390/2017-14 and 08700.004494/2018-53.

8 Merger case No. 08700.001726/2020-36.

9 Merger case No. 08700.000129/2021-75.

10 Merger case No. 08700.004073/2021-28.

11 The complaint was later withdrawn, but CADE decided to continue with the investigation against Google based on Microsoft's original claims. See Administrative Proceeding No. 08700.005694/2013-19.

12 Administrative Proceeding No. 08012.010483/2011-94.

13 Administrative Inquiry No. 08700.003211/2016-94.

14 Administrative Inquiry No. 08700.003498/2019-03.

15 Administrative Inquiry No. 08700.004530/2015-36 and Preliminary Proceeding No. 08700.010960/2015-97.

16 Preliminary Proceeding No. 08700.008318/2016-29.

17 Administrative Proceeding No. 08700.006964/2015-71.

18 Available at:

<http://antigo.cade.gov.br/acesso-a-informacao/publicacoes-institucionais/dee-publicacoes-anexos/documento-de-trabalho-001-2018-uber.pdf>. Freely translated.

19 According to CADE, they are not considered travel agencies because they do not allow users to book directly on their website, but rather redirect them to another website to complete the reservation.

20 Proceeding No. 08700.002785/2020-21.

21 See Valor Econômico's report dated 3 July 2020, available at:

<https://valorinveste.globo.com/mercados/renda-variavel/empresas/noticia/2020/07/03/cade-consulta-gigantes-digitais-para-avaliar-aquisicoes-no-setor.ghtml>.

22 A summarised English version of the report was published by its authors, Patricia Sakowski (deputy CADE general-superintendent) and Filippo Lancieri (CADE PNUD consultant) and is available at:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3681322. The original Portuguese publication is available at CADE's website, at:

<https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-eco>

conomicos/documentos-de-trabalho/2020/documento-de-trabalho-n05-2020-concorrenca-em-mercados-digitais-uma-revisao-dos-relatorios-especializados.pdf.

23 Stigler Committee on Digital Platforms, 'Stigler Committee on Digital Platforms: Final Report' available at:
<https://www.chicagobooth.edu/research/stigler/news-and-media/committee-on-digital-platforms-final-report>.

24 Autorité de la Concurrence; Bundeskartellamt, 'Competition Law and Data', available at:
https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Berichte/Big%20Data%20Papier.pdf;jsessionid=05A65D631328FDBDE9A8517A1246C99A.2_cid387?__blob=publicationFile&v=2.

25 Available at:
<https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report>.

26 CADE, 'Concorrência em mercados digitais: uma revisão dos relatórios especializados', August 2020, p. 7, freely translated.

27 id., Section 2.1.

28 See Alexandre Cordeiro's 25 August 2021 interview with R7, available at:
<https://noticias.r7.com/jr-24h/conteudo-exclusivo/jr-entrevista/videos/jr-entrevista-alexandre-cordeiro-presidente-do-cade-fala-sobre-a-concorrenca-no-pos-pandemia-25082021>.

29 See Alexandre Cordeiro's 14 July 2021 interview with Brazil Journal, available at:
<https://braziljournal.com/no-cade-um-novo-xerife-cauteloso-com-os-remedios-que-aplica>.

30 See Alexandre Cordeiro's 14 July 2021 interview with Estadão, available at:
<https://economia.estadao.com.br/noticias/geral,novo-presidente-do-cade-alexandre-cordeiro-diz-que-tendera-a-ser-menos-intervencionista,70003778696>.

31 See Alexandre Cordeiro's 19 July 2021 interview to Reuters, as published by CNN and available at:
<https://www.cnnbrasil.com.br/business/conglomerados-de-gigantes-da-tecnologia-preocupam-diz-presidente-do-cade/>.

32 See Alexandre Cordeiro's 14 July 2021 interview with Brazil Journal, available at:
<https://braziljournal.com/no-cade-um-novo-xerife-cauteloso-com-os-remedios-que-aplica>.

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