

Second Substantive Meeting of the
2023 Working Group on Cross-border Cartels

25 April 2023

Presentation:

ADMINISTRATIVE PROCEDURE - 1/2022

(CASE N. 08700.002012/2021-26)

Office of the Superintendent-General Antitrust

Analysis Unit 7

CADE - Brazil

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ADMINISTRATIVE PROCEDURE

1/2022

(CASE N. 08700.002012/2021-26)

PUBLIC VERSION

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OFFICE OF THE SUPERINTENDENT-GENERAL
ANTITRUST ANALYSIS UNIT 7 (DEDICATED TO INTERNATIONAL CARTELS)



THE SPORTS MEDIA RIGHTS CASE

DISCLAIMER

- Part of the information presented herein is under protection of the Brazilian Antitrust Leniency Program. Therefore, additional investigative information must be exchanged via MOU or WAIVER to guarantee the integrity of the Antitrust Leniency Program.
- Our team is available to collaborate on further international investigations. Please contact us at cgaa7@cade.gov.br.

PUBLIC VERSION

BRIEF

- Anticompetitive behavior in the international market for the **procurement of sports media rights and other rights associated with sporting events** and the provision of consultancy-related services to associates. The behavior potentially affects Brazil and involves the following entities and their employees: B4 Capital, Dentsu, Endeavor, Infront Sports & Media, MP & Silva, U! Sports, the European Broadcasting Union and Telefónica.
- CADE started an administrative proceeding as per Article 13, Item V and Article 69 and following of Law n. 12529, of November 30, 2011 in conjunction with Article 146 and following of the Statutes of CADE.

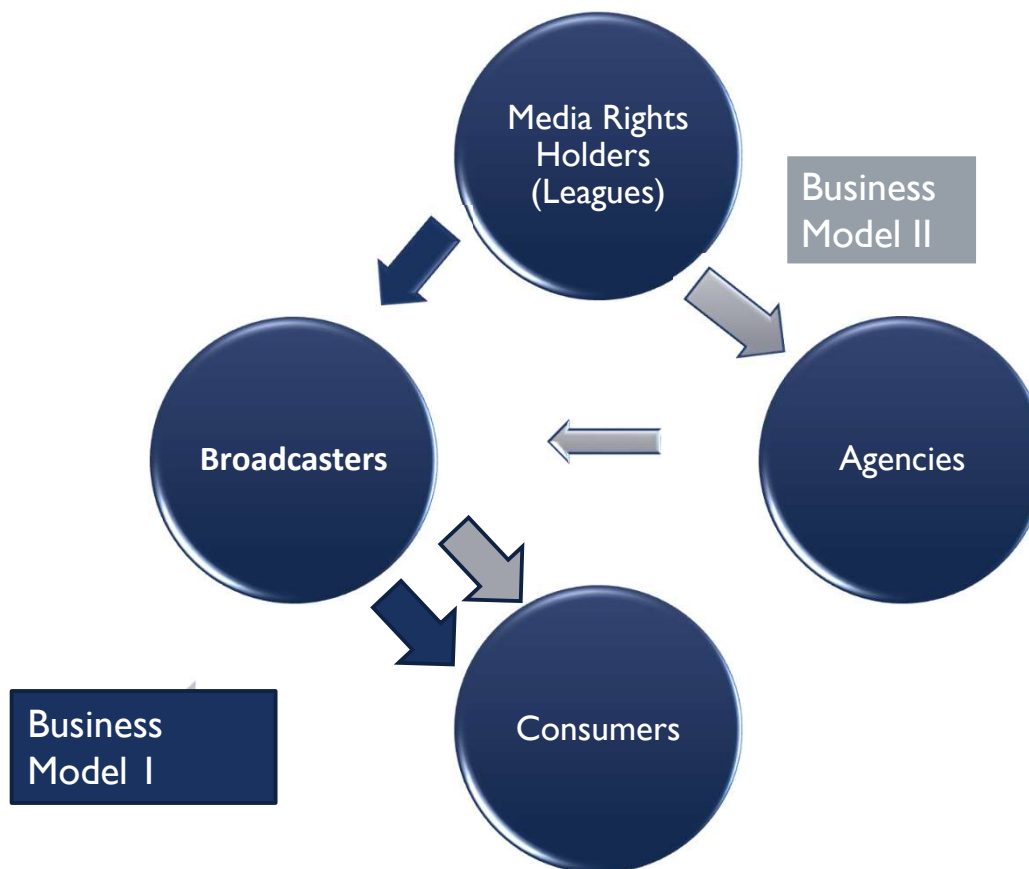
PUBLIC VERSION

MARKET OPERATIONS

- Media rights refer to the rights to exploit audio, visual and audiovisual content produced or under responsibility of a given party (e.g. sports entities) in such a manner that allows the content to be consumed.
- Media rights are traded through formal tenders organized by leagues, organizations and other rights holders.

PUBLIC VERSION

MARKET OPERATIONS



ANTICOMPETITIVE CONDUCT

So far, evidence supports the anticompetitive conduct consisted of:

- (i) price fixing;
- (ii) market division, through cover bids, bid suppression, anticompetitive joint bidding agreements, and/or;
- (iii) the exchange of commercially sensitive information.

Despite the *per se* nature of the behavior, the collusion may have created a *de facto* monopsonic environment through illegal market practices.

PUBLIC VERSION

AFFECTED ENTITIES



Italian Serie A



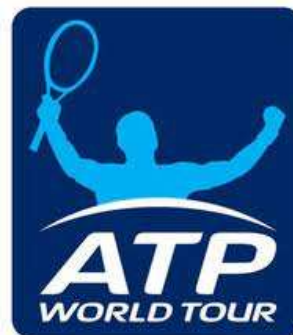
Spanish La Liga



World Moto GP



English Premier League



Association of Tennis



National Football League

EFFECTS ON THE BRAZILIAN JURISDICTION

Since the object of this investigation is primarily related to competition for global - or at least multi-territorial - broadcasting rights, the behavior might have had widespread effects in the Brazilian territory:

- Media rights acquired through anticompetitive practices could have been negotiated with local broadcasters and other audiovisual producers;
- The media rights being negotiated may refer to sporting events that took place inside the Brazilian territory or with the participation of Brazilian stakeholders.

PUBLIC VERSION

POTENTIALLY HARMED ENTITIES

- Sports federations;
- Sports clubs;
- Holders of media rights;
- Broadcasters;
- Brazilian (worldwide) viewers, indirectly.

PUBLIC VERSION

TIME LAPSE

- The alleged anticompetitive conduct occurred from 2008 to 2017 at least;
- 8 companies/economic groups had some degree of participation;
- 37 employees or former employees involved;
- Case became an administrative proceeding in 2022.

PUBLIC VERSION

PENALTIES

- Art. 37. Committing an antitrust violation subjects the liable parties to the following penalties: **I - in the case of a company, a fine of 0.1% to 20% of the gross sales revenue the company**, group or conglomerate earned in Brazil in the field of activity affected by the conduct in the fiscal year before the proceedings were initiated, which should never be less than the accrued benefits, whenever possible to estimate them;
- II – a fine amounting to between **BRL 50,000.00 to BRL 2,000,000,000.00** is applied where impossible to use the gross sales revenue criterion in the case of **individuals** and legal persons governed by public and private law, or associations of entities or individuals, whether de facto or de jure, even if temporarily established, incorporated or not, which do not perform a business activity;

COURSE OF THE CASE

| OFFICE OF THE SUPERINTENDENT-GENERAL (<i>Superintendent-General</i>) | ADMINISTRATIVE TRIBUNAL (<i>Commissioners</i>) |
|---|---|
| Leniency Agreement | Receipt of the case for analysis |
| Examination of facts and evidence | Further investigation and setting of the hearing date |
| Communication with other jurisdictions affected by the conduct | Case adjudication |
| Notification of defendants to make their appeals | Publication of the conviction/acquittal in the Federal Official Gazette of Brazil |
| Submission of the case for review by the Commissioners of the Tribunal. | |

THANK YOU

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