



*Is the Portuguese
leniency regime
producing the results that
were expected?*

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GARRIGUES

- Background
- The Leniency Law objectives
- Results obtained
- Assessment of results
- Positive aspects
- Suggestions of improvement
- Conclusions



- Federal Trade Commission (70's)
- Commission's Communication regarding the non-imposition of fines or the reduction of fines in cartel matters (1996, 2002, 2006)
- Regulation 1/2003
- Law 39/2006
- AdC's Regulation 214/2006

- **More cases**
- **A powerful instrument for the filling of complaints and dismantling of cartels**

- “Catering Cartel” (2009)
- Price fixing and bid-rigging
- Fines in the amount of € 14,7 million / five undertakings

- There are no cartels?
- Insufficient awareness in relation to leniency?
- Improper leniency program?



If there are cartels, if there is some level of knowledge and if the program is not worse than other similar programs, **why is there this apparent apathy for leniency?**

CULTURE

FEAR

Enforcement

- Continuous flow of cases
- Effectiveness of decisions
- Quality
- Expedite judicial review



If leniency requires a high level of enforcement ... why do we need leniency?

Enforcement → Leniency → Better Enforcement



Assessment of results



| | | |
|--------------------------------|-------------|------------|
| Likelihood of detection | 20% | 80% |
| Fine | € 1.000.000 | € 1.000.00 |
| Advantage | € 200.000 | € 800.000 |



- Marker system
- Amnesty plus



- Information on leniency applications
- First contacts in hypothetical terms
- Guidelines on the calculation of fines
- More flexible approach on the relevant moment to obtain leniency
- Intermediate levels of reduction of fines
- Legal protection of declarations made by leniency applicants

- **Is the Portuguese leniency producing the results that were expected?**
- **Is it worth having it?**
- **So, what do we need?**

