

Case DECO vs Portugal Telecom

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Case DECO vs Portugal Telecom

Background

Time – Years 1998 and 1999

Portugal Telecom – Monopolist until 2000

Prices – defined under a Price Convention between
– Portugal Telecom, Portuguese Communications
Institute and General Directorate on Trade and
Competition



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Background

- Two kinds of prices paid by consumers:

Monthly fee

Call rate

- Three kind of call rates

Local – 3 minutes periods

Regional – 36,5 seconds periods

National – 14,6 seconds periods



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Facts

- Introduction of a new price:
 - Activation price or fee – same value of the first period
- Consumers had to pay:
 - Monthly fee;
 - Activation fee – each time they started a phone call;
 - Call rates (local, regional or national)



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Cause of Action

- The activation fee was not foreseen on the Price Convention and it had to be;
- The activation fee was meant to cover costs already covered by the call rates;
- The activation fee was a minimum consumption;
- This was an unfair commercial practice forbidden by competition and consumer laws.



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Type of Action/Type of Court

- 4 judicial group actions:
 - 1998 – Claim for Injunction;
Action for compensation;
 - 1999 - Provisional remedy;
Action for compensation.
- Civil Courts



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Role of Consumer Organization

- DECO has been actively involved in this procedure:
 - Prepared a memorandum on the facts and evidences;
 - DECO staff members were witnesses;
 - Supported lawyers activity;
- Press Releases and other communication actions in the Media



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Role of Consumer Organization

- Presented a Petition that was delivered in the Parliament and had meetings with all Parliamentary Groups;
- Presented a complaint to the Portuguese Ombudsman;
- Had several meetings with the Members of the Government and Public Administration;
- Negotiated the final agreement.



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Difficulties encountered

- Delay of the judgment:

The first decision on the provisional remedy came 5 months after the Declaration;

- Execution of the final decision:

The Portuguese group action act does not foresee a special way to execute this kind of decisions



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Figures

- Length of the Procedure – 4,5 years
- Number of Consumers – 2.000.000
- Amount of money to be reimbursed – 120.000.000,00 euros
- Court fees – 0,00 euros (for the consumer's organization)
- Lawyers fees – Included in the monthly agreement



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Remedies

- Portugal Telecom was convicted to:
 - Reimburse the activation fee to all consumers who were its clients at the time of the facts;
 - Publish the decision on two of major national newspapers
- No compensation for the consumer organization's costs



Case DECO vs Portugal Telecom

THANK YOU

I'LL BE HAPPY TO ANSWER
YOUR QUESTIONS

