Merger Control

The international regulation of mergers and joint ventures in 74 jurisdictions worldwide

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GETTING THE DEAL THROUGH

Chile

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Legislation and jurisdiction

1 What is the relevant legislation and who enforces it?

Decree-Law 211 of 1973 (the Antitrust Law or DL 211) is the legislation governing antitrust matters in Chile. According to the Antitrust Law both the the Antitrust Court (Tribunal de Defensa de la Libre Competencia) and the National Economic Prosecutor (FNE) are the entities enforcing antitrust laws and regulations in Chile.

The FNE is an independent administrative entity in charge of investigating conducts that may constitute violations to the Antitrust Law, representing the public interest before the Antitrust Court and seeking enforcement of resolutions, decisions and instructions issued and passed by the Antitrust Court.

The Antitrust Court is a special, independent court of law, subject to the supervision of the Supreme Court. Its role is to prevent, correct and sanction anti-competitive conducts, and to decide all cases the FNE or private persons may submit to its consideration. It is also in charge of issuing general guidelines for the enforcement of competition law.

2 What kinds of mergers are caught?

All concentration transactions, including horizontal, vertical and conglomerate transactions, are subject to DL 211 to the extent they could prevent, restrict or hinder free competition or tend to produce such effects.

3 What types of joint ventures are caught?

As mentioned above, DL 211 states that every act or conduct that prevents, restricts or hinders free competition or that tends to produce such effects is caught by the Antitrust Law, regardless of the legal nature of the act or conduct that produces such effect. Therefore, joint ventures are caught by DL 211 in the same manner as mergers, acquisitions or any other act or conduct as long as they produce or are conducive to such effects.

4 Is there a definition of 'control' and are minority and other interests less than control caught?

'Control' is not defined in DL 211. However, Law No. 18,045 (the Securities Market Act) defines control as 'any person or group of persons acting together, which, directly or through other persons or companies, controls at least 25 per cent of the shares of a company'.

The Antitrust Court has taken into account such definition, and has also provided its own concept of control in Ruling No. 117/2011 as 'the capacity of a natural or legal person of excerting a decisive influence in competitive decision-making of other natural or legal persons.'

Minority interests are not expressly regulated in the Antitrust Law. However, the FNE has shown interest in the acquisition of minority shareholdings and interlocking directorates as factors to assess under a concentration analysis of a given transaction, as expressed in its document 'Participaciones Minoritarias y Directores Comunes entre Empresas Competidoras'. Minority shareholdings shall be relevant if these entail veto rights, if there is access to confidential information of competitors and if the minority shareholder has influence on the corporate governance.

5 What are the jurisdictional thresholds for notification and are there circumstances in which transactions falling below these thresholds may be investigated?

There are no mandatory jurisdictional thresholds in Chile.

Nevertheless, there is currently a bill at Congress suggesting modifications to DL 211 and, among other things, the bill proposes mandatory pre-merger notification if the following thresholds are met:

- if the sum of the sales within Chile of the economic agents planning to merge, reaches, in the financial year prior to the year in which the notification takes place, an amount equal to or higher than the threshold set by the Regulation issued by the Ministry of Economy; and
- if at least two of the economic agents planning to merge have separately generated sales in Chile, in the financial year prior to the year in which the notification takes place, for an amount equal to or higher than the threshold set by Regulation issued by the Ministry of Economy.

According to the bill, concentration operations falling below such thresholds may nevertheless be investigated by the FNE within a year of the transaction closing, if the latter believes such operation may have breached DL 211.

6 Is the filing mandatory or voluntary? If mandatory, do any exceptions exist?

Currently, filing in Chile is voluntary.

Parties to a transaction may request the Antitrust Court's approval by initiating a voluntary consultation proceeding. However, there are some exceptions regarding specific markets that do require mandatory pre-merger notifications, as indicated in question 8. In addition, certain companies, regardless of the market in which they participate, can be compelled to notify according to a judicial order issued by the Antitrust Court as a remedy imposed in specific cases.

7 Do foreign-to-foreign mergers have to be notified and is there a local effects test?

According to DL 211, the Antitrust Court may review any act or contract that prevents, restricts or hinders free competition or tends to produce such effects, as long as those effects take place in Chile, irrespective of the place of execution of the act or contract.

DL 211 does not limit the Antitrust Court's power to review a merger depending on the nationality or place of incorporation or business of the concerned undertakings. Any possible impact on the relevant Chilean market of a proposed merger would be sufficient to vest the Chilean antitrust authorities with jurisdiction over it. Therefore, foreign-to-foreign mergers could be notified and a local effects test be applied as if the merger was carried out between national companies, if the transaction is deemed to be contrary to DL 211 provisions.

8 Are there also rules on foreign investment, special sectors or other relevant approvals?

Foreign investment is regulated by Decree-Law 600, and Chapter XIV of the International Exchange Regulation of the Chilean Central Bank. However, these regulations do not govern concentration transactions but the entry of foreign capital into Chile.

There are special regulations and relevant approvals for the following matters:

- Securities market: see question 15.
- Banks and financial institutions: Decree with Force of Law No. 3 of 1997 (the Banking Law) regulates banks and financial institutions and created the Superintendency of Banks and Financial Institutions

(SBIF). The Banking Law provides that no one may acquire, directly, through third parties or indirectly, shares of a bank which, by themselves or added to those previously held by the same person, amount to more than 10 per cent of bank capital, without the prior consent of the SBIF.

- Insurance: Decree with Force of Law No. 251 of 1931 (the Insurance Companies Law) regulates the insurance market. According to article 38 of the Insurance Companies Law, insurance companies must report to the Superintendency of Securities and Insurance (SVS) on any change to their shareholding structure entailing the acquisition of a 10 per cent or greater share of their capital by a shareholder. In turn, the shareholder who acquires this interest must report to the SVS on the identity of its controlling partners and provide evidence that they have not been declared guilty of certain crimes, or declared bankrupt or been penalised by the SVS.
- Mass media: Law No. 19,733 about Freedom of Opinion and Information and the Exercise of Journalism requires that any relevant event or act in connection with the modification or change of ownership or control in a media company must be reported to the Antitrust Court within 30 days of its consummation. However, in the case of media companies subject to the state-sponsored licensing system, this relevant event or act must be the subject of a previous report prepared by the Antitrust Court assessing its impact on the media market. This report must be issued within 30 days from the filing of this application, otherwise is to be deemed as not meriting any objection.
- Water utilities: Decree with Force of Law No. 382 of 1989 (the Water Utilities Law) establishes certain restrictions to entry into the water utilities sector for controlling shareholders of electric distribution utilities, local telephone companies and pipe gas utilities that are natural monopolies, with customers in excess of 50 per cent of all users of one or more of these utilities in the areas under concession to any given water utility in those same geographical areas.

Notification and clearance timetable

9 What are the deadlines for filing? Are there sanctions for not filing and are they applied in practice?

Since filing is not mandatory in Chile, there is no deadline and consequently, in theory, no sanction for failing to file.

However, under general competition rules, any horizontal integration or concentration transaction that has not undergone a consultation procedure with the Antitrust Court may be challenged by any individual or the FNE, by initiating an adversarial proceeding if the transaction is deemed to violate antitrust law. The claim may be filed either before or after the closing of the transaction.

All legal actions (except for collusion) arising from DL 211 have a three-year statute of limitations as of the execution of the relevant agreement.

The bill to modify DL 211 provides that concentrations, if the thresholds are met, must be notified prior to closing. Concentrations falling below the thresholds may nonetheless be voluntarily notified by the corresponding economic agents. If these are not voluntarily notified, the FNE may, within one year of the transaction closing, conduct an investigation into it.

The bill establishes that DL 211 article 26's sanctions shall be applicable in case of breach of the notification obligation. These sanctions are the modification or termination of the related acts or contracts, the ordering of dissolution or modification of legal persons, partnerships and companies, and fines of up to US$17 million.

10 Who is responsible for filing and are filing fees required?

Nobody is responsible, since filing is not mandatory. Nevertheless, as mentioned, the Antitrust Law states that whomever carrys out or enters into any act or contract that hampers, restricts or hinders free competition or that tends to produce such effects may be penalised by the Antitrust Court. Fines may be imposed upon both the infringing entity and its directors, managers or any person taking part in the relevant act. Directors, managers or people who had benefited from the relevant act, shall be jointly and severally liable, given that had took part on the penalised act or agreement.

Consequently, every party involved in a transaction may be considered responsible for initiating a voluntary proceeding if the act or agreement is deemed to be contrary to DL 211 provisions.

No fees are required if the parties initiate a voluntary proceeding before the Antitrust Court.

11 What are the waiting periods and does implementation of the transaction have to be suspended prior to clearance?

If the parties file a voluntary consultation requesting the Antitrust Court's approval, the procedure may take up to 18 months in total (including the appeal remedy discussed below), depending on the complexity of the transaction and the amount of information provided by the parties. The parties are entitled to file an appeal remedy before the Supreme Court against the resolution issued by the Antitrust Court. An appeal remedy may take a further four to eight months.

Once a consultation is filed, the Antitrust Court has the power to suspend the transaction. According to the Auto Acordado No. 5/2004, issued by the Antitrust Court, from the beginning of the consultation procedure the deeds, acts or contracts shall not be celebrated, executed or concluded by the consultant party without prior approval of the Antitrust Court. This is because the purpose of the consultation is to obtain a pronouncement of the Antitrust Court granting or denying the execution of the act or agreement.

12 What are the possible sanctions involved in closing before clearance and are they applied in practice?

As discussed in question 11, once a voluntary consultation proceeding has been filed, parties may not close the transaction without prior approval of the Antitrust Court. If the parties close the transaction before the final ruling has been issued, the Antitrust Court may block the transaction.

The bill to amend DL 211 provides that DL 211 article 26 sanctions shall be applicable (see question 9).

13 Are sanctions applied in cases involving closing before clearance in foreign-to-foreign mergers?

The sanctions to be applied if the closing takes place before clearance in foreign-to-foreign mergers are the same as those applied in local mergers; therefore, the Antitrust Court shall be entitled to block the transaction and apply the sanctions described in question 12.

14 What solutions might be acceptable to permit closing before clearance in a foreign-to-foreign merger?

As there is no mandatory pre-merger review, no acceptable solutions such as those mentioned above are contemplated in Chilean law in order to close before clearance in a foreign-to-foreign merger.

15 Are there any special merger control rules applicable to public takeover bids?

The general rule in Chile is that any takeover (by means of an acquisition of shares) entailing a change of control of an open-stock corporation must be conducted through a tender offer (an OPA). The OPA is a public offer for acquiring shares through the procedure described in the Securities Market Act. Such process ensures equal opportunity and fair dealing among all shareholders of the OPA target company.

Consequently, if one of two merging companies is an open-stock corporation, such integration must be subject to the OPA procedure. This is the general rule; however, the Securities Market Act provides some exceptions.

Apart from that, there are no special merger control rules.

16 What is the level of detail required in the preparation of a filing?

The Antitrust Court, within the scope of its authority, issued the Auto Acordado No. 12-2009, establishing its formal criteria regarding preventive control in concentration transactions. It provides that a voluntary consultation before the Antitrust Court must include the following information:

- the parties to the transaction;
- a full description of the proposed transaction, including related documents and exhibits, resulting structure of ownership and control after the execution of the transaction, countries where the transaction shall produce effects, time frame and the existence of non-competition clauses; and
- the relevant market, including a description of the goods and services provided by each party, market size and market share of each party, structure and characteristics of the actual and potential supply and demand of the goods and services, costs, description of distribution and commercialisation systems, prices, existence of exclusivity and cooperation agreements and joint ventures of each party.

If such information is not filed along with the consultation, the Antitrust Court shall request all listed information ex officio.

17 What is the statutory timetable for clearance? Can it be speeded up?

See question 11.

18 What are the typical steps and different phases of the investigation?

Parties to a transaction may initiate a consultation procedure for clearance before the Antitrust Court, but there is an alternative process. The FNE has investigative powers, and may investigate a transaction before it is closed, either ex officio or upon notification by the parties. The FNE may close the investigation, or impose conditions for not challenging the transaction or may execute a settlement agreement with the parties, which must be approved by the Antitrust Court.

Consultation procedure with the Antitrust Court

The non-litigious procedure starts with the filing of a 'consultation' with the Antitrust Court. The Antitrust Court then decrees the initiation of the procedure. This ruling must be published in the Official Gazette and in a newspaper of national circulation. The initiation of the procedure is also notified to the FNE, relevant authorities and those entities that, in the view of the Antitrust Court, have a legitimate interest in the matter.

Having finished the notifications and publications, the Antitrust Court grants a term, no less than 15 business days, in order to allow notified entities or authorities, or whoever has a legitimate interest in the matter, to provide any evidence or records in connection with the transaction. At the end of the term, the Antitrust Court calls for a public hearing. The objective of the public hearing is to allow anyone who has provided evidence of any nature to express their opinions. After the hearing, the Antitrust Court is required to rule on the matter and is expressly entitled to establish the conditions that must be fulfilled for the act or contract to take place.

The Antitrust Court can approve the proposed transaction (without limitations) or impose certain conditions if an antitrust concern is raised.

The execution of the proposed transaction in accordance with the decision of the Antitrust Court does not generate any antitrust liability (unless – on the basis of new data – it is qualified as contrary to free competition in a new decision issued by the Antitrust Court). This certainty represents an advantage for initiating the voluntary consultation process.

FNE investigation

The FNE issued the Guidelines on Operation Concentrations (the FNE Guidelines), which contain a particular proceeding for merger investigations, either ex officio when the transaction has not been closed or when the parties voluntarily notify the FNE about a concentration operation.

The procedure established in the FNE Guidelines is as follows:

- Parties should file a form available on the FNE's website.
- Within five business days, the FNE should issue a resolution opening the investigation, which shall be notified to the parties and published on the FNE's website. However, if the parties notify the transaction under confidentiality, the investigation shall not be opened until the transaction becomes public.
- The proceeding should not take more than 60 business days after the beginning of the investigation. This term may be extended by mutual agreement of the parties and the FNE.
- DL 211 grants the FNE investigative powers and it is entitled to request information regarding the transaction itself (and its legal, economical commercial and financial aspects), relevant market and involved geographical zones, market shares, condition of entrance, among others.
- Before the expiration of the 60-day term (or its extension), the FNE should decide:
  - to conclude the investigation;
  - to enter into a settlement agreement with the parties; or
  - to bring the transaction before the Antitrust Court.

If the FNE decides to enter into a settlement agreement, it shall schedule a timetable for the negotiations. If there is no agreement within such time frame, the FNE shall initiate a consultation before the Antitrust Court. If the settlement agreement is reached, the Antitrust Court must approve or reject it within 15 business days.

Substantive assessment

19 What is the substantive test for clearance?

From a detailed case-by-case analysis of the resolutions and decisions issued by Chilean competition courts, the following principles or criteria are generally applicable to market concentration cases:

- Definitions: the relevant markets must be defined to determine the degree of market concentration and applicable segmentation criteria, if any. Only then is it possible to predict the attitude competition authorities are likely to take in dealing with a specific event, act or contract referred to their attention. Chilean competition authorities have traditionally held that regulated markets bear a smaller risk of abuse of a dominant position. Competition authorities are obviously entitled to determine at their discretion the relevant market to be considered. This discretion is subject, at any rate, to the rule of reason.
- Existence of substitute products: availability of substitute products has a direct impact on how a relevant market is defined and the degree of market concentration is determined. If a product is easily replaceable by one or more adequate products offering comparable benefits to consumers, then the relevant market may extend to include those substitutes.
- Demand elasticity: high elasticity of demand, that is, the degree to which demand responds to variations in market prices, reduces the risk of abuse of a dominant position in a relevant market.
- Barriers to entry and market growth: the existence or absence of barriers to entry is a weighty factor when attempting to determine the consequences of horizontal combinations. Chilean antitrust authorities have usually held that the risks of monopolistic abuses are considerably lowered in markets without any legal or natural barriers to the entry of potential competitors, that is, with high market contestability. Likewise, a growing market is probably better suited to withstand a horizontal combination given the probable incursion of new competitors into the market.
- Financial reasons for a merger: the financial or business reasons on which a merger is based are key elements in assessing the probability of success should any dispute arise with the competition authorities. Legitimate business reasons, such as economies of scale, or the need to tackle highly competitive markets, are considered reasonable justifications. Ultimately, the actual existence of synergies is an element that is especially held in regard by the competition authorities when approving or rejecting horizontal merger operations.
- Predictable consequences of horizontal business combinations: Chilean competition case law shows that the authorities do not consider market concentration as anti-competitive per se. Such a determination would require evaluating the likelihood of the surviving company to abuse its dominant position in the applicable relevant market.

20 Is there a special substantive test for joint ventures?

As mentioned in question 3, joint ventures have no special rules, but rather are subject to the same regulation as any other transaction that prevents, restricts or hinders free competition, or that tends to produce such effects.

21 What are the 'theories of harm' that the authorities will investigate?

Article 3 of DL 211 provides as a general rule that 'any action, act or convention that prevents, restricts or hinders free competition or that tends to produce such effects' may be sanctioned. Therefore, the scope is broad. Harm may be deemed to exist as a result of potential market dominance, unilateral effects, coordinated effects, conglomerate effects, vertical foreclosure, etc.

22 To what extent are non-competition issues relevant in the review process?

Non-competition issues are not relevant in the review process, considering that DL 211 is only focused on competition matters, and the Antitrust Court has held the same in its rulings.

23 To what extent does the authority take into account economic efficiencies in the review process?

From the analysis of both Antitrust Court resolutions and investigations conducted by the FNE, it is possible to conclude that antitrust authorities

have given great importance to efficiencies arising from a transaction and how these could mitigate the potential antitrust risks. The assessment includes how efficiencies can be proven and how these shall be effectively transferred to consumers.

The Antitrust Court has also analysed whether efficiencies could be obtained by the parties without generating potential antitrust risks (ie, greenfield entrance or organic growth versus mergers and acquisitions).

Remedies and ancillary restraints

24 What powers do the authorities have to prohibit or otherwise interfere with a transaction?

According to articles 18(2) and 31 of DL 211, the Antitrust Court may impose terms and conditions in order to approve the transaction or reject it.

25 Is it possible to remedy competition issues, for example by giving divestment undertakings or behavioural remedies?

The parties to a merger may enter into a settlement agreement with the FNE, which must be approved by the Antitrust Court in order to become effective. This agreement may consider divestments and behavioural remedies by the undertakings, among other things.

26 What are the basic conditions and timing issues applicable to a divestment or other remedy?

There are no specific rules for this matter. Therefore, basic conditions and timing issues would be determined case by case by the Antitrust Court.

Some of the conditions imposed in merger cases initiated by consultation include:

- Prohibiting post-merger entities from participating or having shares, whether directly or indirectly, in related industries, when the market concentration is high. Such parties may even be forced to transfer their shares currently held in such industries.
- Prohibiting the resulting company from participating, whether directly or otherwise, in companies qualified as 'dominant', when market concentration is high. If these individuals or companies were to engage in any of the above operations, such proposal will have to be submitted for the approval of the Antitrust Court.
- Imposing certain types of promotional and/or publicity restrictions if the merged company obtains a dominant market position, such as prohibiting a company from tying up the sale of one product to the sale of another.
- Prohibiting the use of the newly acquired market power to discriminate among any present or future competitors through refusals to deal, offering uncompetitive prices or otherwise.
- Forbidding the merged company from entering into certain types of businesses in the future, or force it to refrain from continuing in such types of business if the market is at risk (eg, acting as a distributor if the company is now a dominant producer).
- Maintaining prices and quality standards for a pre-established period of time.
- Maintaining a single pricing policy nationwide.
- Forcing companies to transfer certain assets, such as concessions or licences (ie, telecommunications licences), that could cause them to have additional market power. The Antitrust Court could further oblige the acquiring party to transfer such assets to a third party if it were to gain an excessive amount of market power. The Antitrust Court may also force companies to maintain certain pricing policies during the term in which such assets are yet to be sold.
- Submitting any kind of public or private bidding terms for the approval of the Antitrust Court in the process of selling of company assets.
- Limiting the duration of non-competition provisions.

27 What is the track record of the authority in requiring remedies in foreign-to-foreign mergers?

The Antitrust Court has not limited itself in dealing with foreign-to-foreign mergers; it has asserted ample jurisdiction to review them. Some Antitrust Court precedents regarding foreign-to-foreign mergers in Chile, under the current laws, would be the following:

- Resolution 2/2005: regarding the acquisition of Bellsouth Chile Inc and Bellsouth Chile Holdings Inc (together 'Bellsouth') by Telefónica Móviles SA. The Antitrust Court approved the transaction based on the efficiencies that the integration would create, despite the existence of entry barriers in a highly concentrated market. The post-merger scenario suggested a decrease in the number of market operators from four to three, with the consequent increase in the market concentration. The Antitrust Court approved the merger subject to the fulfilment of the following conditions:
  (i) Telefónica Chile had to transfer part of its telecommunication concessions in a public tender with conditions previously approved by the Antitrust Court;
  (ii) The subsistent company after the merger, Telefónica Chile, had to be subject to the rules provided in the Securities Market Act for open-stock companies and subject to the supervision of the SVS; and
  (iii) Telefónica Chile was prohibited from 'on-net' and 'off-net' discrimination pricing policies while the concessions of (i) were not transferred.
- Resolution 7/2013 (settlement agreement): regarding the acquisition of Pfizer's infant formula division by Nestlé. The FNE and the parties entered into a settlement agreement, whereby Nestlé was committed to sell all the assets corresponding to Pfizer's infant formula business developed in Chile.

28 In what circumstances will the clearance decision cover related arrangements (ancillary restrictions)?

To the extent that the related agreements (ie, non-competition) prevent, restrict or hinder free competition, the Antitrust Court may review them.

Involvement of other parties or authorities

29 Are customers and competitors involved in the review process and what rights do complainants have?

According to article 31 of DL 211, once a consultation procedure has begun, the Antitrust Court must publish in the Official Gazette and on its website a resolution calling for a public audience. Also, the Antitrust Court shall inform the FNE and other relevant players in the market in writing. Within 15 business days of receiving this notification, the notified parties, and those having a legitimate interest in the matter, may provide information to the Antitrust Court. Customers and competitors may get involved in the review process as long as they have a legitimate interest in the matter subject to review. Such involvement shall only entitle the interested parties to provide information.

30 What publicity is given to the process and how do you protect commercial information, including business secrets, from disclosure?

As a general rule, Chilean legislation states that every act, resolution and submitted information is public, and consequently access to information in the process is granted to anyone requesting it from the Antitrust Court.

The Antitrust Court issued Auto Acordado No. 11-2008, regarding reserving or maintaining the confidentiality of the information provided in the process, in order to protect the parties from the disclosure of sensitive information. Under Auto Acordado No. 11-2008, the Antitrust Court may rule that certain information will remain 'reserved' or 'confidential'. For this purpose, 'reservation' shall mean that access to information shall only be granted to the parties in the process; and 'confidentiality' means that it shall be restricted for everyone, except the party that provided the information.

31 Do the authorities cooperate with antitrust authorities in other jurisdictions?

To facilitate the investigations undertaken by the FNE, the authority may enter into agreements with other civil services and public entities, either national, foreign or international entities or institutions, being able to share electronic data not catalogued as confidential or reserved.

Currently there are seven cooperation agreements in force between the FNE and other competition authorities, regarding mutual technical assistance and the application of their competition laws as a whole, and not specifically focused on cartels (Canada, Costa Rica, El Salvador, Spain, Ecuador and Brazil).

Likewise, several free trade agreements currently in force (with Canada, EFTA, the European Union, Korea and the United States) are playing a very important role regarding cooperation between competition authorities owing to their antitrust provisions, which are real frameworks for mutual technical assistance, exchange of information, notifications, communications and the application of competition law.

Also, on 31 March 2011, the FNE executed an agreement on antitrust cooperation with the US Department of Justice and the Federal Trade Commission.

Judicial review

32 What are the opportunities for appeal or judicial review?

The final resolution of the Antitrust Court may be subject to an appeal remedy before the Supreme Court. Other resolutions issued by the Antitrust Court may only be subject to motions for reconsideration before the same Tribunal, which may be heard as a collateral issue or resolved summarily.

There is also judicial review by the Antitrust Court when the FNE and the parties agree upon a settlement agreement.

33 What is the usual time frame for appeal or judicial review?

The appeal remedy must be filed by the Head of the FNE or any of the parties to the proceeding, within 10 business days from service of process, term, which will be extended as applicable depending on the domicile of the affected party if other than Santiago, according to the general rules of articles 258 and 259 of the Civil Procedure Code.

Enforcement practice and future developments

34 What is the recent enforcement record and what are the current enforcement concerns of the authorities?

In the past year there were no Antitrust Court resolutions on consultations, but there were a few cases of settlement agreements being proposed by the FNE and the parties to the transactions containing measures approved by the Antitrust Court:

- FNE with Oben Holding Group SAC, Bopp Chile SA and Pack Film Chile SA: the measures were to restrain from imposing exclusivity clauses, reduce the duration of non-compete clauses, to inform customers about the changes to commercial conditions, and the setting of a price cap for a certain amount of time.
- FNE, Abbot Laboratories and CFR Pharmaceuticals: the measure imposed was the transfer of brands, technologies, rights, contracts and assets related to the valproic acid business.
- Contitech Chile SA and Veyance Technologies Chile Ltda: the settlement contemplated behavioural measures that remedied practices thought to restrict competition in the market, providing an advantage to the merging parties to the detriment of their competitors.

35 Are there current proposals to change the legislation?

Currently there is a bill in the Chilean Congress (Bulletin 9950-03), which proposes the establishment of a mandatory merger notification process in two phases. Among other things, the bill increases the sanctions for collusion, establishes criminal sanctions for hard-core cartels, and removes one of the faculties of the Antitrust Court.

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