

Cartel Regulation

in Colombia

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Table of contents

LEGISLATION AND INSTITUTIONS

Relevant legislation

Relevant institutions

Changes

Substantive law

Joint ventures and strategic alliances

APPLICATION OF THE LAW AND JURISDICTIONAL REACH

Application of the law

Extraterritoriality

Export cartels

Industry-specific provisions

Government-approved conduct

INVESTIGATIONS

Steps in an investigation

Investigative powers of the authorities

INTERNATIONAL COOPERATION

Inter-agency cooperation

Interplay between jurisdictions

CARTEL PROCEEDINGS

Decisions

Burden of proof

Circumstantial evidence

Appeal process

SANCTIONS

Criminal sanctions

Civil and administrative sanctions

Guidelines for sanction levels

Compliance programmes

Director disqualification

Debarment

Parallel proceedings

PRIVATE RIGHTS OF ACTION

Private damage claims

Class actions

COOPERATING PARTIES

Immunity

Subsequent cooperating parties

Going in second

Approaching the authorities

Cooperation

Confidentiality

Settlements

Corporate defendant and employees

Dealing with the enforcement agency

DEFENDING A CASE

Disclosure

Representing employees

Multiple corporate defendants

Payment of penalties and legal costs

Taxes

International double jeopardy

Getting the fine down

UPDATE AND TRENDS

Recent cases

Regime reviews and modifications

Coronavirus

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LEGISLATION AND INSTITUTIONS

Relevant legislation

What is the relevant legislation?

Cartels are regulated by the following national legislation:

- Colombian Constitution: article 333 of the Constitution establishes the constitutional grounds of competition regulation in Colombia.
- Law 155/1959: provides a general prohibition on conducts that could negatively affect competition
- Decree 2153/1992: article 47 provides a list of agreements, known also as cartels, considered to restrain competition unduly.
- Law 1340/2009: updated the Colombian competition law regime, particularly with regards to the Leniency Program and other aspects of cartel enforcement.
- Anti-corruption Law (Law 1474/2011): establishes that collusions in public tenders are regarded as crimes that may carry imprisonment for six to 12 years, as well as inabilities to undertake contracts with the state or public entities for up to eight years.
- Decree 2896/2010: establishes the general conditions in which the Colombian Competition Authority may grant benefits to individuals and companies for its contribution to the detection of cartels. Decree 2896 is also developed in Chapter 29 of the Decree 1074/2015.
- Decree 1523/2015: develops article 14 of Law 1340/2009 and modifies Decree 1074/2015.
- Colombian Commercial Code (Decree 410/1971): according to article 1866, the Civil Aviation Authority has the faculty to review and approve all types of transactions carried out by aircraft operators that may result in antitrust conducts.

Relevant institutions

Which authority investigates cartel matters? Is there a separate prosecution authority? Are cartel matters adjudicated or determined by the enforcement agency, a separate tribunal or the courts?

The Colombian Competition Authority in charge of the investigation and prosecution cartels is the Superintendency of Industry and Commerce (SIC). Law 1340/2009 established the SIC as the National Competition Authority. Hence, the SIC has exclusive competence regarding administrative investigations and sanction proceedings.

More specifically, cartel conducts are investigated by the Deputy Superintendency for Protection of Competition, led by the Deputy Superintendent of Competition Matters (DS). The DS is responsible for initiating the investigation and collecting the evidence. Subsequently, once the investigation has concluded, the DS will emit a report directed to the Superintendent of Industry and Commerce (the Superintendent) in which the DS will recommend whether to impose sanctions against the alleged infringers. However, the DS does not have competence to impose sanctions or absolve the investigated parties, given that the Superintendent is the sole authority with the competence to issue a binding decision regarding the outcome of the investigation.

The Prosecutor's Office may also pursue cartels as a criminal conduct if they are formed to collude in the adjudication of public contracts or to the detriment of public funds.

Changes

Have there been any recent changes, or proposals for change, to the regime?

No, there have not been any recent changes or proposals for change to the cartel regime.

Substantive law

What is the substantive law on cartels in the jurisdiction?

There are two main sources of law that regulate cartel conducts in Colombia: (1) Law 155/1959, which provides a general prohibition for anti-competitive agreements aimed at restricting the production, supply, distribution or consumption of domestic or foreign raw materials, products, goods or services, and in general all kinds of practices, procedures or systems that limit free competition or that maintain or determine unfair prices; and (1) Decree 2153/1992, which prohibits the aforementioned agreements in case their purpose or effect could be:

- direct or indirect fixing of prices;
- the determination of conditions of sale or marketing which discriminate against third parties;
- market allocations between producers or between distributors;
- the allocation of production or supply quotas;
- the allocation, distribution or limitation of sources of supply of productive inputs;
- the limitation of technological developments;
- conditioning the supply of a product to the acceptance of additional obligations which by their nature did not constitute the objective of the negotiation;
- refraining from producing a good or service or to affect its production levels;
- colluding in public tenders, distributing the awards of public contracts or fixing the terms of proposals; and
- preventing third parties from accessing markets or marketing channels.

Joint ventures and strategic alliances

To what extent are joint ventures and strategic alliances potentially subject to the cartel laws?

The SIC has established that any type of agreement or contract in which two or more competitors decide to pool their resources for the purpose of accomplishing a specific commercial task will be defined as a 'collaboration agreement'. Furthermore, the competition authority has stated that joint ventures and strategic alliances are forms of collaboration agreements in Colombia, although they are not specifically regulated under Colombian law.

Although joint ventures and strategic alliances do not have the same legal treatment as merger operations in Colombia, and therefore can be formed without previously informing the competition authority, these agreements can potentially be subject to cartel laws and sanctions if: (1) the agreement unduly restricts competition, pondering the pro-competitive effects of the alliance versus its anticompetitive effects; (2) the agreement is specifically intended to exclude competitors, facilitate collusion as a result of disclosure of sensitive information or generate restrictions on the right of members to compete with each other as independent market players.

APPLICATION OF THE LAW AND JURISDICTIONAL REACH

Application of the law

Does the law apply to individuals, corporations and other entities?

Antitrust legislation applies to any individual or company that carries out an economic commercial activity in Colombia. Therefore, antitrust laws may also apply to joint ventures or state-owned corporations.

Extraterritoriality

Does the regime apply to conduct that takes place outside the jurisdiction (including indirect sales into the jurisdiction)? If so, on what jurisdictional basis?

The Colombian Antitrust Regime does not have cross-border effects. However, the countries that make up the Andean Community (Bolivia, Ecuador, Colombia and Peru) must comply with the regional regulations contained in Decision 608/2005. Therefore, any anti-competitive conduct committed in two or more jurisdictions of the member countries could fall within the scope of the Andean Community General Secretariat.

Export cartels

Is there an exemption or defence for conduct that only affects customers or other parties outside the jurisdiction?

No. Given that the application of antitrust laws in Colombia is limited to conducts that might or will have effects in Colombian markets, there are no exemptions for conducts that affect other parties outside the national jurisdiction.

Industry-specific provisions

Are there any industry-specific infringements? Are there any industry-specific defences or exemptions?

No. In Colombia, there are no industry-specific infringements, defences or exemptions.

However, it is important to note that the agricultural sector has been historically considered as a basic sector of the economy, by means of article 5 of Law 1340/2009. Therefore, according to article 1 of Law 155/1959, the government may exceptionally intervene in such sector, either by regulating the market conditions and supply chains or by authorising agreements that, despite presenting anticompetitive effects, are aimed at stabilising the sector.

Government-approved conduct

Is there a defence or exemption for state actions, government-approved activity or regulated conduct?

Yes. Article 1 of Law 155/1959 provides that the government may exceptionally authorise agreements that, despite limiting free competition, are intended to safeguard the stability of a basic sector of the production of goods or services of interest to the general economy.

INVESTIGATIONS

Steps in an investigation

What are the typical steps in an investigation?

According to article 52 of Decree 2153/1992, the Superintendency of Industry and Commerce (SIC)'s procedure for punishing restrictive trade practices has three stages:

- Preliminary inquiry phase – the authority receives information from third parties or carries out its own inquiries to verify whether there is merit in initiating a formal investigation.
- Instruction phase – the authority concludes that it should open a formal investigation. At this stage, the SIC notifies the parties under investigation so that they can submit and request evidence and file arguments in their defence. This stage ends with a report presented to the head of the SIC recommending a penalty or closure of the files.
- Resolution phase – the last phase begins with delivery of the report to the parties so that they can file their closing arguments and ends with the SIC's final decision.

The time frame for investigations depends on the complexity of the case. The whole procedure usually takes between three and five years.

Investigative powers of the authorities

What investigative powers do the authorities have? Is court approval required to invoke these powers?

According to article 1° of Decree 4886/2011, the SIC has discretionary power to practise all types of evidence gathering allowed by law, including:

- documental evidence gathering;
- interrogations;
- dawn raids; and
- other practices that can clarify the conduct subject to the investigation.

INTERNATIONAL COOPERATION

Inter-agency cooperation

Is there cooperation with authorities in other jurisdictions? If so, what is the legal basis for, and extent of, such cooperation?

Yes. Colombia is part of several bilateral free trade agreements and other international agreements involving a commitment to international cooperation in regard to antitrust and restrictive trade practices. For example, the Superintendency of Industry and Commerce (SIC) recently ratified cooperation agreements with Ecuador Competition Office (2020) and Brasil Competition Office (2019), which include specific provisions regarding cooperation to prevent anticompetitive practices.

In addition, according to article 15 of Andean Community Decision 608, the SIC must participate in investigations

carried out by the general secretary of the Andean Community.

Interplay between jurisdictions

Which jurisdictions have significant interplay with your jurisdiction in cross-border cases? If so, how does this affect the investigation, prosecution and penalising of cartel activity in cross-border cases in your jurisdiction?

The Andean Community (with Bolivia, Ecuador, Colombia and Peru as member countries) has particular relevance in terms of cross-border investigations. For instance, the Andean Community has competence to investigate and sanction anticompetitive conducts that take place in one member country and produce real effects in one or more other member countries.

However, the Justice Tribunal of the Andean Community has highlighted the importance of guaranteeing judicial independence and the protection of the non bis in idem principle, preventing that one same anti-competitive conduct is sanctioned within the scope of national law and, simultaneously, sanctioned by the Justice Tribunal.

CARTEL PROCEEDINGS

Decisions

How is a cartel proceeding adjudicated or determined?

After the investigation is conducted by the DS, the Superintendent is in charge of adjudicating cartel activity. Hence, the Superintendent must evaluate the recommendation set forth by the DS and issues a final decision called Resolution.

Burden of proof

Which party has the burden of proof? What is the level of proof required?

The DS must prove its case as there is a presumption of good faith in favour of the accused. In regard to the standard of proof, the case must be proved to the civil standard of proof (the balance of probabilities).

Circumstantial evidence

Can an infringement be established by using circumstantial evidence without direct evidence of the actual agreement?

Yes. In Colombia, circumstantial evidence may be utilised by the competition authority as a way to prove an anticompetitive agreement in absence of direct evidence. However, the Superintendency of Industry and Commerce (SIC) has stated that a decision cannot be solely supported on circumstantial evidence. Therefore, the common practice is to consider circumstantial evidence in a case as a whole, giving it cumulative effect with direct evidence, rather than employing an item-by-item analysis.

Appeal process

What is the appeal process?

In accordance with article 74 of Law 1437/2011, decisions may be appealed with the SIC within 10 working days after the initial decision was issued by the Superintendent. Both parties are entitled to initiate the appeal process and may solicit that the decision be clarified, modified, added or revoked.

On the other hand, the administrative act by which the competition authority issues its decision can be sued before the administrative courts through a nullity and reestablishment of rights action, according to article 138 of Law 1437/2011.

SANCTIONS

Criminal sanctions

What, if any, criminal sanctions are there for cartel activity?

In Colombia, legal entities are not subject to criminal liability. However, their legal representatives and officers may be liable for the company's violations if they consented to, facilitated or tolerated such infringements. According to article 410-A of the Criminal Code, criminal liability for restrictive trade practices occurs when the cartel agreement is made as part of public procurement procedures. If an individual is found responsible for the criminal conduct, he or she may face a prison sentence between six and 12 years, a fine of 200 to 1,000 current legal monthly minimum wages and inability to contract with state entities for up to eight years.

The SIC is the authority in charge of investigating and prosecuting cartels only within the scope of civil liability. Competence for criminal investigation and prosecution is vested exclusively for the Prosecutor's Office.

Civil and administrative sanctions

What civil or administrative sanctions are there for cartel activity?

Sanctions imposed within the bounds of the antitrust regime are of an administrative nature. Thus, there are no civil penalties for cartel activity.

In regard to the amount of the sanctions imposed, fines against corporations can be up to 100,000 times the current monthly minimum legal wage or 150 per cent of the benefit resulting from the infringement. On the other hand, fines for individuals can be up to 2,000 monthly minimum legal wages.

Guidelines for sanction levels

Do fining or sentencing principles or guidelines exist? If yes, are they binding on the adjudicator? If no, how are penalty levels normally established? What are the main aggravating and mitigating factors that are considered?

Yes, the guidelines are established in article 25 of Law 1340/2009, which state that the entity should calculate the penalty considering:

- the impact of the conduct in the market;
- the size of the affected market;
- the benefit obtained from the conduct;
- the infringer's level of participation;

Cartel Regulation

- the accused's procedural behaviour;
- the company's market share in the affected market; and
- the infringer's assets.

Compliance programmes

Are sanctions reduced if the organisation had a compliance programme in place at the time of the infringement?

No. By general rule, the existence of a compliance programme within the infringer's organisation does not lead to reductions in the sanction imposed by the competition authority.

Nonetheless, a compliance programme may serve as an argumentative element in the investigation procedure, in which case the competition authority may evaluate the effects of the compliance programme and exceptionally reduce the sanction imposed.

Director disqualification

Are individuals involved in cartel activity subject to orders prohibiting them from serving as corporate directors or officers?

No. The Colombian competition law regime does not foresee director disqualification orders as a civil sanction against individuals involved in cartel activity.

Debarment

Is debarment from government procurement procedures automatic, available as a discretionary sanction, or not available in response to cartel infringements?

For all administrative cartel procedures conducted by the Superintendency of Industry and Commerce (SIC) it is not possible to impose debarments from government procurement procedures.

However, in cases where criminal liability is determined for collusion in public tendering, debarment or inability to undertake contracts with state entities operates automatically, although its duration may be imposed discretionarily for up to eight years.

Parallel proceedings

Where possible sanctions for cartel activity include criminal and civil or administrative penalties, can they be pursued in respect of the same conduct? If not, when and how is the choice of which sanction to pursue made?

Yes. However, each type of liability is pursued by different authorities and through different proceedings. The SIC is the only authority with powers to investigate, prosecute and impose civil penalties for restrictive trade practices in the administrative area. On the other hand, the Prosecutor's Office is the only authority with powers to accuse and prosecute criminal conduct before a criminal court. Accordingly, the Prosecutor's Office may initiate an investigation, accusation and prosecution either ex officio or following a notice filed by any person. For the Prosecutor's Office to start an investigation and prosecute a case, the allegedly illegal conduct must meet the requirements of article 410A of

the Criminal Code; that is, forming a cartel to unlawfully alter a public tender proceeding. Finally, any individual that has been affected by the conduct may sue the responsible parties for damages before a civil court.

PRIVATE RIGHTS OF ACTION

Private damage claims

Are private damage claims available for direct and indirect purchasers? Do purchasers that acquired the affected product from non-cartel members also have the ability to bring claims based on alleged parallel increases in the prices they paid ('umbrella purchaser claims')? What level of damages and cost awards can be recovered?

No. Administrative investigations and sanctions carried out by competition authority against cartels only intend to serve the general interest, therefore no private damages can be claimed. In that sense, all sanctions imposed to cartels are administrative fines, not an acknowledgment of private damages.

In case a direct or indirect purchaser wants to initiate a procedure to reclaim damages, considering the effects of the anticompetitive conduct lead to a particular economic affectation, that person must initiate other types of civil actions.

Class actions

Are class actions possible? If so, what is the process for such cases? If not, what is the scope for representative or group actions and what is the process for such cases?

Yes. The procedure for such cases is as follows.

- A complaint is filed.
- The complaint is served on the defendant within 10 working days of the complaint being filed.
- The defendant has 10 working days from service of the complaint to reply.
- Within the next five working days, any member of the group of complainants may request to be excluded from the procedure.
- Within the next five working days, the judge will schedule a hearing to take place within 10 working days. This hearing is intended to give the parties a chance to settle.
- Once the hearing is over, the judge will order that the requested evidence be examined. This evidence must be gathered and examined within the following 20 working days.
- Once the evidence gathering and examination is complete, the judge will give the parties five working days to file their final statements.
- After the final statements are filed, the judge will decide the case within 20 working days.

COOPERATING PARTIES

Immunity

Is there an immunity programme? If so, what are the basic elements of the programme? What is the importance of being 'first in' to cooperate?

Yes. The leniency programme is regulated in article 14 of Law 1340/2009, which was further developed by Decree 1523/2015. This programme operates on a first-come, first-served basis – that is, the benefits that a company can obtain depend on when it came forward to inform on the cartel.

The first organisation to file an application to cooperate with the competition authority will be able to obtain total exemption from the sanction. The successive applicants, taking into account the order of their application, can be benefited with reductions between 30 per cent to 50 per cent of the sanction.

Subsequent cooperating parties

Is there a formal programme providing partial leniency for parties that cooperate after an immunity application has been made? If so, what are the basic elements of the programme? If not, to what extent can subsequent cooperating parties expect to receive favourable treatment?

No. Subsequent cooperating parties do not have a specific collaboration programme after immunity has been granted. They can, however, receive favourable treatment by the competition authority as part of the general leniency programme in case they provide useful information of their involvement in the cartel, resulting in a partial exoneration of the sanction.

Going in second

How is the second cooperating party treated? Is there an 'immunity plus' or 'amnesty plus' treatment available? If so, how does it operate?

The benefit for the second cooperation party ranges from a 30 per cent to 50 per cent reduction of the fine, while the third and subsequent cooperation parties receive a maximum benefit of up to 25 per cent reduction of the fine, according to the usefulness of the evidence provided and its collaboration with the competition authority.

Approaching the authorities

Are there deadlines for initiating or completing an application for immunity or partial leniency? Are markers available and what are the time limits and conditions applicable to them?

The infringer may apply to the leniency programme within 20 working days of notification of the formal investigation. The application may be submitted by email, letter or oral report.

Within five days of submission of the application, the Superintendency of Industry and Commerce (SIC) will inform the applicant whether the application complies with the requirements established in article 2.2.2.29.2.3 (accepting participation in the cartel, providing useful information, complying with the SIC's orders and concluding the restrictive agreement) and will issue certification of the applicant's position in the order of benefits.

Cooperation

What is the nature, level and timing of cooperation that is required or expected from an immunity applicant? Is there any difference in the requirements or expectations for subsequent cooperating parties that are seeking partial leniency?

Article 2.2.2.29.2.6 of Decree 1523/2015 sets out the activities that the applicant must perform to sign a leniency benefits agreement. These activities imply a high level of cooperation. For example, the applicant must provide complete information about:

- the anticompetitive agreement;
- the main activities;
- the identity of the participating parties;
- the level of participation of each party to the agreement; and
- the geographical affected area.

Confidentiality

What confidentiality protection is afforded to the immunity applicant? Is the same level of confidentiality protection applicable to subsequent cooperating parties? What information will become public during the proceedings and when?

The confidentiality offered to applicants is set out in article 15 of Law 1340/2009, which states that, on request, the SIC may order the confidentiality of an application if there is a risk that the applicant will suffer commercial retaliations.

Settlements

Does the investigating or prosecuting authority have the ability to enter into a plea bargain, settlement, deferred prosecution agreement (or non-prosecution agreement) or other binding resolution with a party to resolve liability and penalty for alleged cartel activity? What, if any, judicial or other oversight applies to such settlements?

Yes. According to articles 12 and 52 of Decree 2153/1992, the Superintendent may order the closure of the investigation when the alleged infringer provides sufficient guarantees that he will suspend or modify the conduct for which he is being investigated. This anticipated termination of the investigation serves as a binding resolution to resolve liability and penalty for alleged cartel activity.

Corporate defendant and employees

When immunity or partial leniency is granted to a corporate defendant, how will its current and former employees be treated?

According to article 2.2.2.29.3.2 of Decree 1523/2015, the benefits granted to a company applying for leniency are automatically extended to its employees and former employees.

Dealing with the enforcement agency

What are the practical steps for an immunity applicant or subsequent cooperating party in dealing with the enforcement agency?

To be admitted to the leniency programme, cooperating parties must file a report to the competition authority in which they acknowledge and confess their participation in the cartel, provide information about the existence of the anticompetitive agreement, its operation, the product or service involved and the rest of the companies participating or committed to cartelisation.

The reports may be filed by email, in writing, or orally before the competition authority. Once the first applicant files a report, it will be understood that such organisation has priority over other subsequent cooperating parties (first in time,

first in law).

With these actions, the process of negotiation with the SIC begins, as well as the collection and evaluation evidence. These steps help to determine whether or not the authority signs an agreement with the cooperating party.

Finally, the subsequent signing of an agreement in which the cooperating party is exonerated from liability or sanction will be subject to the cooperating party providing useful evidence on the functioning of the anticompetitive agreement. In addition, the cooperating party must agree to comply with the instructions given by the SIC and terminate its participation in the cartel under the terms established by the competition authority.

DEFENDING A CASE

Disclosure

What information or evidence is disclosed to a defendant by the enforcement authorities?

Once the competition authority brings charges to the defendant, all evidence collected so far must be available to the parties involved in the process. The foregoing, with the purpose of guaranteeing an adequate defence and respecting due process.

Representing employees

May counsel represent employees under investigation in addition to the corporation that employs them? When should a present or past employee be advised to obtain independent legal advice or representation?

Yes. By general rule, defendants have the unrestricted possibility of electing their counsel of choice. However, the counsel could allege the existence of a conflict of interest in case there is a significant risk that the relationship between the employee and the organisation, in the course of the investigation, will interfere with the counsel's independent professional judgement.

Multiple corporate defendants

May counsel represent multiple corporate defendants? Does it depend on whether they are affiliated?

Yes. In Colombia, there are no legal prohibitions in regards to one same counsel representing multiple corporate defendants in the course of the same investigation.

Nonetheless, article 34 of the Lawyer Disciplinary Code (Law 1123/2007) provides that simultaneously or successively representing clients who have opposing interests will constitute a disciplinary offence. Therefore, if one same counsel represents multiple corporate defendants, it is necessary to corroborate that all parties do not have opposing interests in the course of the investigation.

Payment of penalties and legal costs

May a corporation pay the legal penalties imposed on its employees and their legal costs?

No. In accordance with article 26 of Law 1340/2009, companies are prohibited from paying penalties imposed on their employees or personnel, directly or indirectly.

Taxes

Are fines or other penalties tax-deductible? Are private damages payments tax-deductible?

No. Fines or any other type of penalties are not tax-deductible for the infringing party.

On the other hand, private damages payments are tax-deductible under Colombian law. However, private damages cannot be claimed during the course of an administrative cartel investigation.

International double jeopardy

Do the sanctions imposed on corporations or individuals take into account any penalties imposed in other jurisdictions? In private damage claims, is overlapping liability for damages in other jurisdictions taken into account?

No. The Colombian competition law regime does not contemplate the possibility of taking penalties imposed in other jurisdictions into account.

Nonetheless, in cases where the investigation conducted by the SIC relates to an international cartel, penalties imposed by foreign authorities may serve as circumstantial evidence against the alleged infringer.

Getting the fine down

What is the optimal way in which to get the fine down?

As stated before, the SIC utilises several aggravating and mitigating circumstances to evaluate the amount of the fine imposed. For instance, according to article 25 of Law 1340/2009, the competition authority bears in mind:

- the size of the affected market;
- the benefit obtained from the conduct;
- the infringer's level of participation;
- the accused's procedural behaviour;
- the company's market share in the affected market; and
- the infringer's assets.

In consequence, optimal strategies to reduce the amount of the fine would be providing useful collaboration to the competition authority within the leniency programme, or refraining to persist in any other anticompetitive conduct in the future. These actions, in other words, may serve the alleged infringers as indicators of good faith during the course of the investigation, which could be key elements in the decision of the SIC.

UPDATE AND TRENDS

Recent cases

What were the key cases, judgments and other developments of the past year?

Name	Date	Case brief	Amount of the sanctions
Chlorine and Caustic Soda cartel	28/10/2019	<p>Through Resolution No. 57600 of 2019, the SIC sanctioned chlorine manufacturers Brinsa and Quimpac, as well as individuals related to such corporations, after concluding that for more than 12 years (2002-2014) the corporations formed a cartel to allocate customers of chlorine, a chemical element used especially by the country's aqueducts for the treatment and purification of water. Also, the SIC determined the existence of an anti-competitive agreement between the corporations aimed at preventing third parties from accessing the caustic soda market.</p> <p>The investigation started in 2017 with Brinsa as a cooperating party in the SIC's leniency programme, where the corporation confessed its participation in the cartel and collaborated with its dismantling. For its useful collaboration, Brinsa was exonerated from 100 per cent of the sanction imposed in the caustic soda market, and granted a substantial reduction in the fine imposed for the chlorine market.</p>	159,327 million Colombian pesos (around £32 million)
Ticketing cartel	06/07/2020	<p>Through Resolution No. 35702 of 2020, the SIC sanctioned three corporations responsible for ticket sales for the Colombian National Football Team during the qualifying rounds to the Russia 2018 World Cup. The sanctions were based on the existence of a bid-rigging agreement between Ticket ya.com, the Colombian Football Federation and Ticketshop to favour Ticketshop in the award of the ticket office contract for the World Cup Qualifiers, thus massively diverting tickets for resale purposes to surcharges of up to 350 per cent.</p> <p>The investigation conducted by the SIC also counted with the participation of Ticketshop as a cooperating party within the SIC's leniency programme, which led to the corporation being exonerated of 100 per cent of the fine imposed.</p>	18,352 million Colombian pesos (around £3.6 million)

Regime reviews and modifications

Are there any ongoing or anticipated reviews or proposed changes to the legal framework, the immunity/leniency programmes or other elements of the regime?

No, there have not been any reviews or proposed changes for the antitrust regime.

Coronavirus

What emergency legislation, relief programmes, enforcement policies and other initiatives related to competitor conduct have been implemented by the government or enforcement authorities to address the pandemic? What best practices are advisable for clients?

To mitigate the effects of the pandemic from a competition law perspective, the Colombian government issued Decree 482 of 2020. This Decree allowed corporations in the transportation sector to enter into collaboration agreements to generate market efficiencies during the crisis, especially for the provision of goods or services that are considered essential for the general welfare of the population (food, sanitation, fuel, aqueduct).

Cartel Regulation

Although collaboration agreements between competitors in the transportation sector would be deemed as anticompetitive in normal circumstances, the Decree established exemptions to the general antitrust regime in cases where the agreements sought the creation of synergies to overcome the crisis.