

UNCTAD - Intergovernmental Group of Experts (IGE) on Competition Law and Policy

VIDEO 1 - 7 MIN: *What are the strategic actions that your authority will undertake to contribute to the economic recovery and the envisaged activities to be implemented in this regard during the pandemic and beyond?*

- The Competition Authority works closely with the regulators advising on draft regulation, understanding the need for quick and strong regulatory responses to the crisis.
- Nevertheless, SIC is not flexible if there are not proper studies that analyze the impact and efficacy of the proposed measures. In other words, the crisis and its aftermath shall not be an excuse to distort markets or limit free economic competition.
- The Competition Advocacy Group is fully committed to provide quick responses for the regulators, even using less days than legally available for the competition advocacy procedure.
- In fact, some regulators have shared urgent regulatory measures aimed to mitigate the pandemic effects. In those situations, the competition authority has been committed to analyze the regulatory initiatives in the shortest possible time, but also with an adequate understanding of markets and the pandemic impact in its dynamics.
- 2020 and 2021 also saw the beginning of the *ex officio* advocacy tool created by Law 1955/2019. Therefore, the Competition Authority now has an active role identifying draft regulation that may affect free economic competition. Using said instrument, the Group has the objective of exploring markets that weren't "frequent users" of the competition advocacy procedure, as well as overseeing regulated sectors with more effectiveness, considering the abundant regulation created during COVID-19.
- The Competition Authority wants to strengthen its position as an advisory body for the Government and the National Congress. The Competition Advocacy Group contributes to legislative activities through non-binding opinions, participating actively in 2020 and 2021.
- The hierarchy of laws creates the risk of "flawed/defective" markets because they are the basis of future regulatory instruments, for that reason, the legislator should consider free economic competition as a key pillar of economic recovery and avoid non-proportional measures that may affect it.
- The Superintendencia of Industry and Commerce actively participates in the Triple A (Customs, Tariffs and Foreign Trade) and Restrictive Practices Committees, advising the Superior Council for Foreign Trade and the National



Government in order to protect and guarantee free trade, specially regarding the products needed for the COVID-19 response.

- Recommendations made by the Competition Authority in those committees are focused on guaranteeing
 - (i) public health;
 - (ii) access to basic goods and services;
 - (iii) employment

(iv) income.
- Consequently, SIC voted favorably the transitory modification to tariffs for medical supplies and devices, as well as for raw materials and capital goods that allow the domestic producers to reduce costs, increase efficiency and contribute to the economic recovery.



VIDEO 2 – 7 MIN: *What are the recent challenges and achievements in the Colombian competition advocacy policy framework?*

The advocacy competition policy has had a lot of challenges and achievements. The following are the main goals that the advocacy competition policy has achieved in the recent years.

1. Compliance issues

- The competition authority has developed a tool in order to create a compliance and self-regulation culture. The initiative was implemented in a joint effort with the Colombian Institute of Technical Standards and Certification – ICONTEC. This initiative consisted in the development and promotion of a technical standard aimed at establishing good practices in terms of free economic competition.
- The initiative's driving issue was the need identified by the competition authority to strengthen the culture of free competition in the markets. On these terms, the competition advocacy initiative intended to support the development of a self-regulation instrument, whose objective was to have market agents internalize the importance of adapting their behavior to the competition regime, thereby strengthening a culture of compliance.
- The main message delivered to the market agents with the competition advocacy initiative is the importance of the compliance with the competition regime for the firm, the markets, and society.
- Competition rules allow:
 - markets work properly and without undue distortions;
 - The regulatory compliance emerges as a self-regulation tool by economic agents, without the need to face enforcement actions from the competition authority.
- Additionally, to the extent that market agents decide to implement the standards contemplated in the technical norm in terms of free competition, it is expected to become a best practice for contracting those who respect the antitrust law. This favors a spillover effect in the market that translates into positive externalities derived from the proper observance of the principles and rules governing free economic competition.
- Additionally, the competition authority has committed with the companies correct antitrust risk identification. In fact, the success of an antitrust

compliance program depends on the proper and precise antitrust risks that the companies deal with.

2. Ex officio advocacy initiative

- The competition authority has the ex officio advocacy tool created by Law 1955/2019. That tool pretends to identify the regulatory initiatives that could affect the market dynamics and the competition, and issue technical concepts.
- In that sense, the competition authority knows the challenges associated with the monitoring and supervision of regulations. For that reason, SIC is developing an artificial intelligence tool to report regulatory initiatives that could impact in the markets.

3. The influence of innovation in the markets

- Nowadays, different markets had presented challenges of innovation. In that sense, due to the change of the market dynamics, the regulators have carried out new regulatory responses and alternatives.
- In that way, the competition authority aims to develop, through the advocacy function, and important role in that construction.
- For that reason, at the time, the competition authority has formulated recommendations in sandbox regulatory frameworks, energy efficient management initiatives, among others.
- There are important challenges related to the correct comprehension of market dynamics, but also related to the impact of new technologies and firms in the market.
- The competition authority studies constantly the markets and maintains dialogue spaces with regulators in order to have a complete understanding of the economic activities subject to regulation.

