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MERGER CONTROL REGULATIONS

IN

COLOMBIA

Competition Law Team
At

Esguerra Asesores Jurídicos

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MERGER CONTROL REGULATIONS IN COLOMBIA

1. Introduction

Merger control regulations have been included in the competition laws of most jurisdictions to avoid that this kind of transactions create excessive restrictions on free competition. Aware of the eventual procompetitive effects that merger transactions may produce in the market, an *ex-ante* control system has been adopted to permit an evaluation by Competition Authorities of some transactions that, according to specific parameters, can rise concerns that they will cause an undue restriction to competition.

In Colombia, the merger control legislation was first introduced in Law 155, 1959 and Decree 1302, 1964. More recently, Decree 2153, 1992, Law 1340, 2009 and Resolution 10930, 2015 of the National Competition Authority, the Superintendence of Industry and Commerce (hereinafter SIC), modernized the system and established a renewed set of rules aimed at strengthening it.

The purpose of this document is to present the merger control regulations in Colombia, emphasizing on the following points: **(i)** Colombian Competition Authority; **(ii)** relevant operations for the Colombian merger policy; **(iii)** requirements for activating the control; **(iv)** procedures of authorization and notification; **(v)** treatment of foreign mergers; and **(vi)** sanctions.

2. The National Competition Authority

The SIC was granted a broad set of tasks by Decree 2153, 1992, including the application of the main merger control regulations in Colombia.

The head of the SIC is the Superintendent of Industry and Commerce, a public official that can be freely appointed and removed from office by the President of Colombia, for the SIC is an administrative entity under the control of the Government.

Regarding merger control, pursuant to article 2 of Law 1340, 2009, the SIC was given the power to review mergers in all sectors of the economy, except for concentrations in the financial and aeronautical sector[1]. Additionally, said law awarded the SIC the

[1] Decree 663, 1993, contains the rules regarding mergers in the financial and insurance sectors, while mergers in the aeronautic sector are regulated in the Code of Commerce and the Colombian Aeronautic Regulations.

power to fix some of the criteria that determine if a given transaction must be subject to merger control before it takes place.

The Merger Group created within the SIC, is in charge of carrying out the procedure, although the final decision is taken by the Superintendent of Industry and Commerce himself.

3. Relevant operations for the Colombian merger control system

Article 9 of Law 1340, 2009, establishes the operations that need to be subject to merger control in Colombia. According to it, companies dedicated to the same economic activities or that belong to the same value chain will have to inform the Superintendence of Industry and Commerce any projected operation whose purpose is merging, consolidating, acquiring control or integrating, regardless of its legal form, as long as it complies with some requirements that will be explained later.

Said article has been interpreted by the SIC in order to conclude that any economic transaction should be deemed a concentration that needs authorization from the Competition Authority when the parties involved cease to participate independently in the market and, in consequence, become permanently controlled by the same decision center.

This result may be achieved by various legal strategies, such as the ones mentioned in article 9. Others, such as joint ventures, have been subject to control in certain cases by the Authority. Therefore, the analysis of the decisions and guidelines of the SIC becomes crucial in order to fully understand which operations are deemed relevant under Colombian merger control regulations.

One of the key concepts for which the study of the SIC documents is essential is "*control*". Under Colombian law, there are two definitions of control: one is found in the Commerce Code and applies to corporations; while the other one is in the Competition Law and refers, in a broader way, to undertakings.

The definition of corporate control, in Colombian law, includes both internal and external control. According to article 261 of the Commerce Code, internal control shall be considered to exist when a company, directly or through other subsidiaries, owns more than 50% of the capital stock of another company or owns or commands enough voting stock to appoint the majority of its directors. Meanwhile, a situation of external control arises when, by way of a contract or other relationship different from the ownership of stock, one person or company can exercise a dominant influence over a corporation.

A broader definition of control is found in Colombian Competition Law, which comprises the following meanings:

- The possibility of influencing, directly or indirectly, the business policy of an undertaking, the initiation or termination of the activities of the company.

- The variation of the activities to which the company is dedicated.

- The use or disposal of the essential assets needed for the activities of the company, especially when these decisions are related to the way in which the controlled agent competes in the market.

Moreover, in recent decisions, the SIC has recognized several circumstances in which minority shareholders may exercise material influence in the company's competitive decisions. Therefore, nowadays Colombian merger policy refers the following types of control (which must be analyzed on a case-by-case basis):

Exclusive control: A sole individual or company may materially influence the competitive performance of another company, directly or indirectly. Two kind of exclusive control may be found:

- **Positive exclusive control:** The controlling entity has the power to make and enforce competitive decisions.

- **Negative exclusive control:** The controlling entity has the possibility to veto decisions of the controlled company, thus influencing its competitive performance.

Joint control: Two or more individuals or companies have a direct or indirect material influence over the competitive performance of another company. There are several situation in which joint control is present:

- If equal political rights exist between the controlling entities.

- When a majority shareholder acting together with a minority shareholder that is capable of vetoing decisions.

- When a group of minority shareholders unite to consolidate **(a)** a majority, or **(b)** the possibility to veto decisions.

Additionally, whenever a company switches from one type of control to another one (for example, from negative to positive control), a new procedure before the SIC may have to be addressed if the requirements for doing so are met by the transaction.

Clearance is not required when the transaction is carried out between companies that belong to the same corporate group. Therefore, they are excluded from the application of the merger control regulations.

Finally, regarding foreign mergers, the SIC applies the "*effects theory*", according to which, whenever a transaction produce its effects in Colombian market, the SIC has the power to review it.

In conclusion, Colombian merger control regulations (and the interpretation developed by the SIC) contain a wide range of transactions that may fall within the competition definition of control and are therefore subject to the merger rules in Colombia.

4. Thresholds for the activation of the merger control regulations

The previous section identified the relevant transactions for merger control. Nevertheless, not every one of those operations may be reviewed before they take place, for the law has establishes thresholds in order to avoid unnecessary review of operations that, objectively, will not harm competition.

Accordingly, article 9 of Law 1340, 2009 sets the requirements that transactions consisting of acquisitions, mergers, consolidations or integrations must fulfill in order to be reviewed by the SIC:

(i) Subjective requirement: The parties are dedicated to the same activity or belong to the same vertical value chain.

(ii) Objective requirements (thresholds or *de minimis* rule):

a. **Economic Threshold:** The parties, together or separately, had operational income or possessed assets in Colombia, in the year prior to the transaction, in an amount previously fixed by the SIC–currently, a sum equivalent to 60.000 Colombian monthly minimum wages, around USD $12.000.000.[2]

[2] SIC Resolution No. 90556, issued on December 29th, 2016.

The authority will consider the operational income and assets of the companies that directly participate in the transaction and those related to them by a control relationship, as long as are dedicated to the same activity or belong to the same vertical value chain.

When the companies involved in the transaction participate in the Colombian market exclusively through exports and have no reported sales or assets in the country, the requirement will be measured according to the foreign operational income and assets of the companies that directly participate in the transaction and those related to them by a control relationship, as long as are dedicated to the same activity or belong to the same vertical value chain.

b. Market Participation Threshold: The parties have, individually or together, a participation in any of the relevant markets affected by the transaction, of 20% or more.

Three scenarios may arise from said requirements:

a. If the parties meet the subjective and objective requirements, a **long form Pre-evaluation request (waiting period)** must be requested from the SIC.

b. If the parties meet the subjective criteria and also the economic threshold, but together or separately, do not have a participation in the affected relevant market(s) of 20%, a **short form Notification (no waiting period)** procedure must be followed before SIC.

c. Mergers that do not meet the abovementioned thresholds are considered as generally authorized and the parties only need to leave a note in the minutes of their board of directors stating that the transaction falls within the General Authorization Presumption. This same effect occurs when the transaction is carried out between parent-subsidiary companies or companies that belong to the same corporate group

In the first two scenarios, the operation **must not enter into effect in Colombia,** before the procedure with the SIC has been cleared. This means that the agreements and contracts may be executed, but they must declare that their effects are pending the ending of the procedure before the SIC. In such scenario, both parties are responsible for presenting the filing and assemble all necessary documentation.

5. Pre-evaluation and notification procedures

5.1 Presentation of the filing before the SIC

The antitrust filing can be presented by any of the companies that participate in the transaction or by some or all of them. If only one or some of the companies present the filing, the document will only need the signature of the legal representative or representatives of the company or companies that are actually presenting the filing, if they are presenting it directly. If the company or companies are presenting the filing through an attorney, the attorney or attorneys will only need to present power of attorney from the company or companies that are actually presenting the filing.

In any event, the filing must contain the information related to all of the companies that participate in the transaction. In this case, the legal representative(s) or the attorney(s) presenting the filing must expressly declare that the confidential information of the company or companies that they do not represent, was legally obtained and with the due authorization of the other companies participating in the transaction.

In the event of a hostile takeover, the company or companies that present the filing can inform the SIC that they have tried to obtain the information requested in SIC Resolution 10930, 2015, but they have been denied it. In this case the SIC will request such information from the target company.

In the filing, the companies must expressly declare, whether they are presenting a **long form Pre-evaluation request (waiting period)** or a **short form Notification (no waiting period).** If this declaration is not made, the authority will require them to do so, causing a delay in the proceedings.

In the case of a **long form Pre-evaluation request (waiting period),** the parties must expressly declare their intention of carrying out the transaction. The filing must contain all the information requested in SIC Resolution 10930, 2015 for Phase I. The procedure will not start and the terms for clearance will not start to run until the information for Phase I is complete. If the parties desire so, they can file the information for Phase II in the initial filing.

The antitrust filing must be presented in Spanish. All figures must be presented in digital form, in an electronic spreadsheet. The filing may be presented in digital form by uploading it to the web page of the authority at www.sic.gov.co.

5.2 Confidentiality of the documents and information presented with the filing

In the case of a **long form Pre-evaluation request (waiting period), t**he participating companies may request the SIC to maintain the confidentiality of information and documents presented with the filing. This request must be explicit

and motivated, and the parties must present a non-confidential summary of the confidential information that will be accessible for third parties. This requisite will be waived in the case of information consisting in figures, cost structures or client lists, that because of their nature cannot be summarized.

The same rule will apply to the confidential documents or information that third parties file within the procedure. In this case, the parties will have access to the non-confidential summaries of the information presented at the appropriate time within the proceedings.

The SIC may object the confidential character of any information or document presented by the parties because it does not meet the criteria to be considered as confidential pursuant to the Constitution and the law. The SIC will motivate its decision.

The SIC will not share with foreign competition authorities the confidential information filed in a merger control procedure, unless the owner of the confidential information expressly grants its authorization to share it.

5.3 Preliminary meeting with the authority

If the intervening parties so desire, they can request with an anticipation of five (5) working days, a preliminary meeting with the authority, in order to review the conditions of the operation and the required documentation, with the objective of clearing doubts and facilitating the formal presentation of he filing before the authority.

5.4 Short form Notification (No Waiting Period) before the SIC

Whenever a transaction takes place between undertakings that are dedicated to the same activities or participate in the same vertical value chain; whose operational income or assets of national origin during the year preceding the transaction surpass 60.000 minimum monthly wages, around USD $12'000.000; and have a market participation below 20% in any of the relevant markets affected by the transaction, a **short form Notification (no waiting period)** must be filed before SIC.

In this case, the parties will have to render a series of documents about themselves, the transaction, the affected market or markets and the competitors, among others, and the competition authority must check within ten (10) days if the parties need to request a **long form Pre-evaluation request (waiting period)**. Otherwise, permission is considered granted since the notification notice is filed with the SIC.

If the companies decide to close on the transaction before the ten (10) days review period has elapsed and the information presented to justify a below 20% market

participation is found not accurate, the SIC may conclude that the parties should have filed a **long form Pre-evaluation request (waiting period),** and initiate a *gun jumping* investigation.

5.5 Long form Pre-evaluation request (Waiting period) before the SIC

If the parties comply with the subjective and objective requirements explained above, they have the obligation of filing a **long form Pre-evaluation request (waiting period)** in order to request the SIC to authorize the transaction. This is a longer process, compared to the notification procedure, and the parties will have to convince SIC that their transaction does not raise concerns from a competitive perspective.

The process is describes as follows:

- The parties must file a Pre-evaluation petition (Phase I format), together with a succinct description of the transaction. Resolution 10930, 2015, establishes the documents that have to be delivered to the SIC. All documents must be rendered in Spanish.

- If the filing is not complete, the SIC will request the companies to present the missing documents or clarify their presentation. The term for the competition review will not run until the filing is complete. If the parties fail to complete the filing within the following two (2) months, the authority will consider that the petition has been desisted.

- Within the following 3 days, the SIC will evaluate if the transaction needs to be reviewed. In case it decides the transaction does not need review, it will end the proceedings.

- If the transaction needs review, within the three (3)-day period SIC will order a publication in a newspaper of ample circulation, so that within the next ten (10) days of the publication, any interested parties can file the information they deem relevant for the analysis of the transaction.

- The parties may request the SIC to abstain from the publication, for public order reasons, and SIC may accept the petition and maintain the transaction and the procedure confidential.

- Within Phase I, the SIC has thirty (30) working days to study the transaction and decide whether **(i)** the transaction poses no risk to competition, case in which it will approve it, or **(ii)** there are no elements to clear the transaction with the available information and the review procedure must continue to Phase II.

- If the procedure continues, the parties must file within a fifteen (15)-day period the information contained in SIC Resolution 10930, 2015, related to Phase II, except for the information SIC deems irrelevant.

- If the intervening parties so desire, they can request with an anticipation of five (5) working days, a meeting with the authority, in order to review the information required for Phase II, with the objective of clearing doubts and facilitating the formal presentation of the Phase II filing before the authority.

- Additionally, if the procedure continues, the SIC will inform the regulation and the control agencies in the special sectors involved in the merger transaction. Those entities will have the opportunity to offer SIC their technical advice in regard to the transaction under study, within ten (10) working days of the notification, and can also participate in the proceedings at any point. Their opinion is not binding for the authority, but if the SIC is going to depart from that opinion, it must justify that decision. Within this fifteen (15)-day period, the parties can have access to the information filed by the authorities and third parties, and request or file evidence against it.

- If the SIC deems it necessary, it will inform the parties in writing of the possible anticompetitive effects of the transaction, so that the companies, if they so desire, can propose remedies to compensate the negative effects of the transaction. Such conditions or remedies have ranged from elimination of exclusivity for distributors to the obligation of producing for a competitor at variable cost, allowing a competitor to use a percentage of installed capacity, and even the obligation to divest part of the business including trademarks. In our experience, SIC has proven to prefer structural remedies, such as divestments, to conduct or behavioral remedies.

- The offering of conditions by the interested parties will not interrupt the three (3) month term for Phase II.

- Within the three (3) months following the date in which the parties have filed all the information requested, SIC will have to make one of three possible decisions: **(i)** simple authorization; **(ii)** conditioned authorization –i.e. clearance with remedies-; or **(iii)** objection of the transaction. Pursuant to article 11 of Law 1340, 2009, the SIC must only prohibit or object to mergers that tend to produce an undue restriction to competition. Since every merger restricts competition to a certain degree, the challenge is to find out which mergers will tend to produce an undue restriction to competition. The scope of this concept will be analyzed below.

- In those cases in which the transaction is also subject to the clearance of foreign competition authorities, the parties may present the SIC, before it issues its decision, a mechanism that allows to close the transaction in other

jurisdictions in which the transaction has been cleared, while the companies are maintained separate in Colombia, until the SIC clears the transaction.

- The mechanisms that the parties present will be aimed at maintaining the separation of the companies in Colombia until the SIC issues its decision clearing it, regardless of the fact that the transaction has been cleared and is already producing effects in other jurisdictions. The *hold-separate* mechanisms must be previously accepted by the SIC.

- The three (3) months term for Phase II will only start running when all the information requested for Phase II in SIC Resolution 10930, 2015 has been filed. The authority can interrupt this term only once, by requesting additional information. In this case, the three (3) months period will start to run only after the additional information is filed. Any subsequent requests for information will not interrupt the term.

- According to Colombian Law, in case that the SIC surpasses this deadline, the transaction is considered automatically approved since the authority loses competence over the case (administrative positive silence). However, it must be pointed out that there have been only a couple of such cases in the last twenty years, which means it is most unlikely to occur.

- In case that at any time within the proceedings, the parties to the merger remain inactive for two (2) months, the SIC will consider that the petition for authorization of the transaction has been desisted.

- Decisions issued by superintendents, as is the case of the Superintendent of Industry and Commerce, are not subject to appeal, but only to a reconsideration plea before the same public official. The reconsideration plea has to be filed within ten (10) working days after notification of the decision, and the Superintendent has to decide it within the following two (2) months, but this period can be extended because of the need to gather additional evidence.

- The final decision issued by the SIC, can be challenged by means of a judicial action before the Administrative Jurisdiction. This action must be filed within the next four (4) months following the decision to object or prohibit the merger. However this alternative is not very attractive to the parties, because of the length of the procedure (6 to 10 years).

There is no format to request authorization from SIC. However, SIC Resolution No. 10930, 2015, points out specific information that the merging parties must provide to the authority. The list is very detailed. It includes information concerning the transaction itself, the companies involved, market conditions, other competitors, consumers, barriers to entry, and other information that may aid SIC to properly evaluate the effects of the transaction. It is important to note that the SIC can abstain

from considering the transaction until the parties provide the complete information requested in the regulation.

6. Brief explanation of the economic analysis or substantive test performed by the SIC

The economic review or substantive test performed by the SIC has the following characteristics:

- Firstly, the relevant market is determined considering the geographic market and the product market.

- Regarding the geographic market, the Competition Authority tends to define it as the minimum necessary area in which the two undertakings, acting together, will find profitable to increase their prices, as long as the relevant products in other areas remain the same.

- As to the product market, the SIC analyzes, mainly, the economic sector in which the merger will take place and the characteristics of the undertakings which concur in it, as well as the characteristics, price and end-uses of the products involved in the transaction. Concretely, the product market definition is done using hypothetic monopolist test (SSNIP test) in order to determine the elasticity of residual demand. Other relevant factors are **(i)** indirect competition; **(ii)** the existence of two-sided markets; and **(iii)** asymmetric conditions.

- Secondly, an evaluation of the competitors' characteristics is performed. Once the market shares are determined, the SIC applies concentration indexes like HHI and CR4 in order to evaluate the effects of the merger transaction.

- Additional aspects that are taken into consideration are **(i)** the dynamism of market shares; **(ii)** the degree of differentiation and substitutability of the products; **(iii)** the existence of barriers to entry and **(iv)** the market power of buyers. This, in order to determine the contestability of the market, the possible new competitors and their eventual market power.

- As previously mentioned, the Competition Authority may only object a transaction whenever it creates an undue restriction to competition. According to Article 5 of Decree 1302, 1964, the following cases fall within the scope of an undue restriction to competition:

    a. When the transaction is preceded by anticompetitive practices between the merging parties.

b. When the transaction will give the merged entity the power to impose "unfair prices".

- The parties are able to propose conditions to the merger transaction in order to countervail its possible negative effects. Next chapter will be dedicated to this point.

- Moreover, if the parties consider that the SIC may object the transaction, an efficiency exemption may be invoked. Its purpose is to demonstrate that the possible anticompetitive outcome is surpassed by the efficiencies created by the transaction, which will be shared with consumers.

- In at least two cases, the SIC has accepted the "*failing industry*" defense to allow mergers whose purpose is to save companies that, otherwise, would go bankrupt and disappear.

7. Remedies

As previously mentioned, the parties are able to propose conditions (remedies) whenever they consider that actions performed by them may countervail the anticompetitive effects of the merger. Additionally, this shows the authority the parties' willingness to discuss alternative measures to reduce the Authority's eventual concern.

There are two types of remedies: behavioral and structural. Behavioral remedies imply the assumption of commitments and obligations regarding the future performance of the merged economic agent in the market. Structural remedies, on the other hand, entail the adoption of measures within the architecture of the undertakings to diminish risks. As said before, the SIC tends to prefer structural remedies.

The SIC can take various measures to assure compliance with said remedies. First, it forces the parties to accomplish their commitments within a certain period or time or before a set date. Additionally, the Authority has the power to request information to the parties. Moreover, the SIC frequently requests that an external auditor is appointed with the purpose of checking the degree of compliance of the conditions by the parties. Finally, to have a complete guarantee, the parties are requested to put in place an insurance bond.

If the parties do not follow their commitments and breach the remedies, the SIC will present a claim to the insurance company and it can always start an investigation procedure and impose fines for the non-compliance of the merger control regulations.

SIC Resolution No. 10930, 2015, provides a special procedure for requesting the modification or termination of the remedies.

8. Gun jumping investigations

The SIC has the power to investigate and sanction mergers that, needing it, were closed and produced effects in the market without clearance by the SIC, for it is considered as an infraction to competition law. A *gun jumping* investigation may also be initiated by the SIC in case of breach of the obligations contained in the remedies accepted by the authority in order to clear the transaction.

As such, these infractions are subject to the sanction rules established in the competition law, which include fines of up to 100.000 minimum monthly wages, about USD $20'000.000 for the companies and 2.000 minimum monthly wages, about USD $450.000 for the natural persons involved as facilitators.

In order to avoid the statute of limitation, the SIC must decide to sanction the undertakings or natural persons accused, within five (5) years from the moment when the transaction took place.

Finally, since this conduct is considered to be anticompetitive, the civil sanctions established in the antitrust regime for such conducts are applicable. Thus, the transaction may be declared null and void by a judge, which would affect every contract signed that bears any relation with the outcome of the merger. This particular consequence is decided by a civil judge and not by the SIC.

9. Reconsideration plea and judicial actions after merger procedures

If the parties do not agree with the decision taken by the Superintendent of Industry are Commerce, they may present a reconsideration plea within the ten (10) days after the decision is taken. Since said public official does not have any superior within the SIC, the reconsideration plea is decided by himself and has to be decided, in principle, within the two (2) months that follow the original decision, but the term may be expanded if further information or additional evidence is required to decide the case.

After the reconsideration plea is decided, if the parties continue to disagree with the Superintendent of Industry and Commerce, a judicial action may be filed before the administrative jurisdiction, within the four (4) months following the decision of the reconsideration. Even though this option may lead to a more objective decision, the length of the procedure (between 6 and 10 years) acts as a disincentive.

10. *Esguerra Asesores Jurídicos*' experience in merger procedures

Lawyers at *Esguerra Asesores Jurídicos* have been filing notifications and authorization requests since the procedure started in Colombia. In fact, Alfonso Miranda Londoño, senior partner of the firm, was one of the main advisors during the drafting of Law 1340, 2009.

The following chart presents the transactions carried out by *Esguerra Asesores Jurídicos* during the last months:

MERGER TRANSACTIONS CARRIED OUT BY EAJ IN THE LAST 24 MONTHS					
	Intervening Parties*	**Relevant Market(s)**	**Description**	**Type of Filing**	**Status**
1	**SPRINGER - HOLTZBRINCK**	Academic Publishing	Set up of a Joint Venture between the companies to manage and control the academic publishing business. Both companies will own the JV.	Short Filing	Approved
2	UNILEVER – **P&G**	Skin Soaps	Unilever's purchase of the skin soap brands Zest and Camay from P&G.	Short Filing	Approved
3	DKK/MITSUI - **DUPONT**	Chloroprene Rubber	DKK and MITUI constituted a JV that will acquire DUPONT's CR line of business (including brands, factories and IP rights)	Full Filing	Ongoing
4	**TERPEL** - AVIACOM	Airport Gas Stations	TERPEL's intended merger with AVIACOM owner of gas stations located in Villavicencio,	Full Filing	Approved

			San Jose del Guaviare and Yopal's airports. Currently, TERPEL in its role of distributor sells the fuel to AVIACOM (Jet A1 and AVGAS)		
5	**LENOVO-MOTOROLA**	Smartphones/tablets	Lenovo's acquisition of Motorola. The overlap comprises the latter's Smartphone and tablet line of business.	Short Filing	Approved
6	**LENOVO** -IBM	x86 Servers	Lenovo acquisition of IBM's x86 Servers line of business (typically servers under USD $25.000)	Full Filing	Approved
7	MARS – **P&G**	Pet Food	Mars acquisition of P&G's pet food line of business (including the brand Eukanuba).	Short Filing	Approved
8	**BAYER -**MERCK	Consumer Care	Bayer acquisition of Merck's consumer care line of business. The overlap included some analgesics and personal care deodorants.	Full Filing	Approved
9	**DUPONT -**	PVB/PVA	Kuraray	Full	Approved

	KURARAY		acquisition of DuPont's PVB and PVA (resistant glass) line of business. The acquisition includes factories, IP rights and brands.	Filing	
10	**PEPSICO - POSTOBON**	Beverages	Joint control of commercializati on of products sold under *Gatorade* and *Lipton Iced Tea* Brands.	Full filing	Approved
11	**PEPSICO - POSTOBON**	Beverages	Joint control of commercializati on of products sold under *Ocean Spray* Brands.	Full Filing	Approved
12	**DIEBOLD –** WINCOR NIXDORF	Self Service Solutions	Merger between Diebold incorporated and Wincor Nixdorf to create the new "Diebold Nixdorf".	Full Filing	Approved
13	**EXOR –** PARTNER RE	Reinsurance	Exor's acquisition of PartnerRe. The transaction had vertical effects as Exor is the owner of the insurance company Neptunia.	Short Filing	Approved
14	**KNAUF - PANELTEC**	Drywall/Plasterb oard	Knauf's acquisition of Toptec's Plasterboard	Full Filing	Approved

			line of business (Paneltec was the spin-off). Post-transaction, Knauf will be the leader in the Colombian drywall market.		
15	**COREMAR-COLTUGS**	Harbor Towage.	Ultratug's (Coltugs parent) acquisition of Coremar harbor and offshore towage line of business. Post transaction, Coltugs will be the leader in the harbor towage market.	Full Filing	Approved
16	**SURAMERICANA -** ROYAL AND SUN ALLIANCE	<u>Vertically</u>: Insurance brokers. <u>Horizontally</u>: Several insurance lines	Acquisition of several companies belonging to the Royal and Sun Alliance Group by Suramericana, in Colombia and other countries	Full filing	Approved
17	**MEDTRONIC - COVIDIEN**	Electronic Devices	*Medtronic's acquisition of control over Covidien and creation of a new company*	Short Filing	Approved
18	**DUPONT-**DOW	Different Chemical and agricultural markets	Transaction between Dupont and Dow to create DowDupont a company that will merge all the activities developed between parties	Full filing	Approved

*In bold, companies represented by *Esguerra Asesores Jurídicos*.

The success rate, the complexity of the transactions and the wide range of relevant markets analyzed are a clear proof of the firm's experience and recognition in this topic.

11. About the firm

Esguerra Asesores Jurídicos is a market-leading firm, held in high esteem due to its experience and the reputation of its partners in the professional and academic sphere in each of their respective fields. This has lead the partners to play an active role as frequently consulted experts in –or even direct drafters of– the specific legal regulations or reforms of their particular field. The firm works within the strictest ethics parameters and the highest professional standards. It possesses the experience, knowledge, infrastructure and technology needed to provide reliable legal counsel to its clients. Additionally, and with the help of the alliances it has developed with law firms in other parts of the world, the firm is prepared to offer its services on international affairs. The firm is both multidisciplinary and specialized, with proven ability to handle complex matters particularly in the areas of antitrust, arbitration, commercial, labor, financial, and public law.

12. About the Competition Law Team at Esguerra Asesores Jurídicos

Esguerra Asesores Jurídicos is one of the leading antitrust firms in Colombia. It represents its clients both in antitrust and unfair trade in investigations conducted by the national antitrust authority and in litigation before the courts. The firm's experience allows it to provide excellent advice in specific antitrust matters and specialized markets, that include natural resources, energy, telecommunications, healthcare, finance, capital and insurance, involving compliance programs. The firm also has a remarkable experience analyzing and presenting merger filings before national authorities and obtaining all necessary authorizations. Notably, the firm has been involved in the most complex filings that have taken place in Colombia during the last 20 years. Antitrust litigation and advice extends its practice to consumer law representation and compliance programs.

The Competition Law team is 10 strong. The lawyers that participated in this publication are the following:

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Andrés Jaramillo Hoyos is a lawyer from the Javeriana University Law School in Bogotá, Colombia. He specialized in Business Law at Universidad Externado de Colombia, and in Administrative Law at Universidad Javeriana.

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