

Competition Law in Latin America

A Practical Guide

Edited By

JULIÁN PEÑA & MARCELO CALLIARI



Wolters Kluwer

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Editors and Contributors

Marcelo Calliari, Head of the Antitrust Group at TozziniFreire Advogados. Former commissioner of CADE and former president of Brazilian competition institute IBRAC. LLM Harvard Law School and PhD University of São Paulo.

Julián Peña, Partner and head of the Antitrust Department at Allende & Brea. Professor of Competition Law at Universidad de Buenos Aires. Founder and moderator of ForoCompetencia

Manuel A. Abdala is Executive Vice President at Compass Lexecon in Washington, DC.

Alfredo Bullard, Partner at Bullard Falla Ezcurra+. Professor of Law Pontificia Universidad Católica del Perú.

Guillermo Frene Candia, formerly at Cariola Diez Pérez-Cotapos, currently at Duke University.

Joana Temudo Cianfarani, Partner at the Antitrust Group at TozziniFreire Advogados.

D. Daniel Sokol, Professor of Law, University of Florida.

Ignacio L. De Leon, Ph.D., Innovation Lead Specialist, Competitiveness and Innovation Division, Inter-American Development Bank, Washington, D.C.

Mateo Diego Fernandez, Partner at Agon Economía y Derecho, S.C. Former Chief Counsel of Mexico's Federal Competition Commission.

Gabriel Gonzalez is a former Associate of the antitrust department of Basham, Ringe & Correa, currently working with the Mexican Federal Economic Competition Commission.

Esteban Greco, Partner at GPR Economía and Professor at University of Buenos Aires School of Economics. Former Commissioner of the CNDC.

Juan Cristóbal Gumucio Schönthaler, partner at Cariola Diez Pérez-Cotapos.

Juan David Gutiérrez, PhD Student in Public Policy, Blavatnik School of Government, University of Oxford.

Sara Gutiérrez is a Senior Associate within the antitrust department of Basham, Ringe & Correa, with over 10 years' experience in the field, focusing mainly in handling of administrative proceedings and constitutional appeals.

William E. Kovacic, Professor At George Washington University. Visiting Professor at King's College in London. Former Chairman of the Federal Trade Commission.

Andrés Palacios Lleras, PhD Candidate, Faculty of Laws, University College London.

Alfonso Miranda Londoño, Alfonso Miranda Londoño is a lawyer from the Javeriana University Law School in Bogotá, Colombia (1985). He has specialized in Socioeconomic Sciences in 1985 from the same University, in Banking Law from Los Andes University (also in Bogotá) in 1986 and with a Masters Degree in Law (LLM) from Cornell University in 1987. He is Director of the Law and Economics Department at the Javeriana University Law School, the co-founder and Director of the Centre for Studies in Competition Law – CEDEC, and a Professor of Competition Law at the Javeriana University. He is also the partner that leads the Competition Law practice at Esguerra Barrera Arriaga.

Pablo Márquez PhD, Partner at Marquez Barrera Castañeda. Dr Pablo Márquez, partner at Marquez Barrera & Castañeda, was Chairman of Colombia's Commission for Communications Regulation. Pablo was also the Superintendent for Antitrust at the Colombian Competition Authority. Pablo studied Law, Philosophy and a Master degree in Economics at the Javeriana University, and obtained a LL.M. degree from Harvard Law School and a PhD in Competition Law from the University of Oxford.

Juan Manuel Mercant, partner at Guyer & Regules.

Eduardo Perez Motta, Partner at Agon Economía y Derecho, S.C. Former Chairman of Mexico's Federal Competition Commission.

Javier Napoleone, associate at Guyer & Regules. The author forms part of the firm's Competition Group.

Edgar Odio-Rohrmoser, The author is a partner and founder of the law firm Pacheco, Odio & Alfaro in Costa Rica.

Gesner Oliveira, Partner at GO Asociados. Getulio Vargas Foundation. Former President of CADE.

Germán Orjuela, Consultant at GO Asociados.

Amilcar Peredo is the partner in charge of the antitrust department of Basham, Ringe & Correa. He is acknowledged to be a leading expert in antitrust matters in Mexico, having written one of the first books on Mexican Economic Competition Law.

Diego Petrecolla, Partner at GPR Economía and Professor at University of Buenos Aires School of Economics. Former President of the CNDC.

Lucía Quesada is Senior Economist at Compass Lexecon in Buenos Aires.

Carlos A. Romero, Instituto de Economía UADE.

Federico Rossi, Associate and member of the Antitrust Department at Allende & Brea.

Marcel Medon Santos, Partner at the Antitrust Group at TozziniFreire Advogados. Former head of the Antitrust Department of the Secretariat of Economic Law (SDE).

Juan P. Vila Martínez, Consultant at GPR Economía. University of Buenos Aires School of Economics.

Preface

The past decade saw enormous movement in the antitrust field in Latin America. Over this period several countries in the region either enacted or developed and/or improved their competition legislation, often including new institutional frameworks, more investigative power, harsher penalties and expanded jurisdiction. These changes have repositioned Latin American authorities in the antitrust arena, granting them much greater importance both domestically and internationally.

This new scenario makes this publication useful for practitioners, academics and government officials. In order to provide a more in-depth analysis of such a complex scenario, “Competition Law in Latin America” offers two main sections. The first one includes comments and analysis on the developments sweeping the region, addressing their causes, characteristics and impacts both domestically and internationally, as well as some of the significant challenges faced by competition authorities in the region. The variety of backgrounds of the specialists who author the different chapters in this section ensures that the reader will get a wide range of perspectives, capable of offering a more complete understanding of the current evolution of antitrust in Latin America.

The second section of the book will address each of the main antitrust jurisdictions in the region in an in-depth and detailed manner. Written by practicing experts with considerable hands-on experience in their respective countries, each chapter in this section provides a comprehensive description and explanation of the evolution, current state and prospects for antitrust in each of the countries. The topics addressed encompass relevant institutions and legislation, cartel investigations, unilateral conducts policies and merger review, and include comments on specificities and idiosyncrasies that are so important for a correct understanding of the practical realities of competition policy and enforcement. In this sense, the chapters also include analysis on the most relevant case law, allowing the reader to gauge the positions, views and tendencies of each competition law regime.

Though not uniform across all countries, the overall picture painted by this publication is undoubtedly one of a region carving a new position for itself in the antitrust world. High fines, dawn raids, leniency, criminalization, international coordination are spreading around Latin America, and the increased enforcement has secured it a new status in the definition of a global investigation strategy. The same is

true on the merger review front, as a consequence of the spreading of mandatory waiting periods for mergers (with worldwide impacts) and the renewed confidence in the imposition of remedies. And the growing number of decisions regarding unilateral conduct highlight a duality that affects all competition enforcement in the region. At the same time they look up to and try to emulate agencies from more mature antitrust jurisdictions, typically the United States and Europe, authorities in Latin America also to a large extent follow their own music, including historical and legal peculiarities or also ideological and socio-economic views and positions.

With its broad ranging and in depth-approach, this book provides a unique analysis of a challenging region that seems poised to become an increasingly important part of the international antitrust scenario. It is in this sense an essential guide for lawyers, economists, corporations, academics and government officials interested in understanding where competition law is, and where it is going, in Latin America.

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