

## News Alert Antitrust

March 29<sup>th</sup>, 2019

**FNE raises the thresholds that determine the notification of concentrations transactions, opens a consultation on the regulations governing the matter and creates a new Supervision Division.**

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## Contact



**Juan Cristóbal Gumucio / Partner**

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**E: [jcgumucio@cariola.cl](mailto:jcgumucio@cariola.cl)  
T: +562 2368 3559**

# CARIOLA DIEZ PEREZ-COTAPOS

A B O G A D O S

- **FNE raises the thresholds that determine the notification of concentrations transactions, opens a consultation on the regulations governing the matter and creates a new Supervision Division.**

- **New thresholds for the notification of concentrations transactions.**

Through its Resolution No. 157, issued on March 25<sup>th</sup>, 2019 (the "**Resolution**"), the National Economic Prosecutor's Office ("**FNE**") resolved to raise the sales thresholds that determine whether a concentration transaction among economic agents should be subject to merger review prior to its completion.

Currently, companies planning to concentrate must previously inform the FNE of concentrations transactions in which these two conditions are met:

- i. That the separate sales of at least two of the economics agents planning to concentrate be 290,000 UF (Chilean adjustable units) or more (app. US\$12.5 million) in the year preceding the notification; and
- ii. That the sum of its sales be equal to or greater than 1,800,000 UF (Chilean adjustable units) (app. US\$ 77.5 million) in the year prior to the notification.

**The Resolution raises these thresholds and sets them at 450,000 UF (Chilean adjustable units) (approximately US\$ 19.4 million) for individual sales and 2,500,000 UF (Chilean adjustable units) (approximately US\$ 107.6 million) for joint sales.**

The new notification thresholds were published in the Official Gazette on March 29<sup>th</sup>, 2019 and will become effective once 90 business days have passed since their publication therein, that is, on August 9, 2019.

As from 2020, these thresholds will be adjusted annually according to the variation of real GDP.

- **Public consultation**

Along with raising the thresholds, the FNE initiated a public consultation in order to detect those aspects that could be improved in the "Regulation on Notification of a Concentration Transaction" (the "**Regulation**"), which establishes the information that must be submitted to the FNE in order to notify a concentration transaction.

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With this consultation, the FNE seeks to issue a recommendation to the Ministry of Economy for the amendment of the Regulation, gathering the opinions and assessments of potential notifiers, lawyers, economists, advisors and the general public.

Opinions and suggestions on the Regulation, as well as the names of those who issue them, will be kept confidential by the FNE and will not be published. Interested parties can send their contributions to [comentariosreglamento@fne.gob.cl](mailto:comentariosreglamento@fne.gob.cl).

The consultation will be carried out until 25<sup>th</sup> April this year.

- **New Supervision Division of the FNE.**

In April 2019 will begin to operate the new Supervision Division of the FNE, which will be responsible for monitoring the compliance with the resolutions of the FNE, the decisions of the Antitrust Court and the Courts of Justice.

The new unit will be directed by an FNE lawyer who must inform the head of the Antimonopoly Division of the results of the inspections carried out and propose the measures to be adopted in each case, which must be approved by the National Economic Prosecutor.