

Drawing the Boundaries Between Hub-and-Spoke Cartels and Vertical Agreements: Lessons from the United Kingdom and the United States to Chilean Competition Law

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Abstract

Indirect contacts or exchanges of information between competitors through a common third party can sometimes lead to the existence of a cumulus of vertical agreements and, sometimes, can imply the configuration of a horizontal agreement. In competition law, vertical and horizontal agreements are treated in very different ways. Therefore, establishing whether a set of facts amounts to one or the other is critical. After analysing the situation in the United Kingdom and in the United States, this presentation will explain why the limit between the hub-and-spoke (horizontal) conspiracies and a mere aggregation of vertical agreements lies in the existence not only of vertical information exchanges (or, to phrase it differently, in an indirect horizontal exchange) but also in the established existence of an additional mental element. Towards the end, relevant conclusions will be reached in relation to the application of the Chilean Competition Act.

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