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Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development **08-Feb-2011**

English - Or. English

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

DAF/COMP/WP2/WD(2011)15
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Working Party No. 2 on Competition and Regulation

THE REGULATED CONDUCT DEFENCE

-- Chile --

14 February 2011

The attached document is submitted to Working Party No. 2 of the Competition Committee FOR DISCUSSION under item III of the agenda at its forthcoming meeting on 14 February 2011.

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JT03296108

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1. Introduction

1. In Chile, regulators have no concurrent powers with competition authorities. Therefore, competition law has traditionally played an important role in regulated sectors. Arguments related with regulatory issues are frequently used in competition law litigation. Generally speaking, the case-law states that competition law can be applied to regulated industries, although in a few occasions such faculty has been limited by way of judicial review.

2. This document, jointly elaborated by both the *Tribunal de Defensa de la Libre Competencia* ("TDLC")[1] and the *Fiscalía Nacional Económica* ("FNE")[2], reviews the treatment the "Regulated Conduct Defence" ("RCD") has had in Chilean competition law. It summarizes the main type of cases in which the RCD has been used, how the TDLC has dealt with it, and what areas remain unsettled.

3. Apart from this introduction, the rest of the document has been organized as follow. Section 2 presents a general overview of the RCD in Chile. Section 3 summarizes the most recent case law. Section 4 considers other roles of competition authorities in regulation. Summary tables are included in section 5. Concluding remarks follow in section 6.

2. Overview of the RDC in Chile

4. In Chile, regulation is issued mainly by the Congress (legislation), the executive (*reglamentos*)[3] and other public entities (such as municipalities). Since Chile is a centralised republic, there are no normative concerns arising from federalism.

5. Regulatory goals vary widely. The purpose of some regulations is not always clear. Unless expressly stated otherwise, when analysing regulatory cases Chilean competition authorities consider competition policy objectives (mainly the protection of consumer welfare and economic efficiency) as the main goals to pursue[4]. That is, if a regulation grants a sector authority some discretion to act, it should act in the way that is less competition restrictive.

6. Competition law and regulation may clash in three areas. First, when competition law is used to tackle regulation failures[5]; secondly, when competition law is applied to the actions of the regulator[6]; and finally, when the TDLC issues general regulations in markets and recommendations to regulators.

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1 The TDLC is an expert judicial body with specific jurisdiction on competition law issues.

2 The FNE is an administrative and autonomous body in charge of competition law enforcement (investigation, and litigation) and competition advocacy. The FNE also acts as an independent technical body on competition law issues (drafting technical reports).

3 *Reglamento* is an administrative regulation of general application contained in a Decree issued by the President. The *reglamento* establishes specifics not included in the corresponding law.

4 For example, regarding specific goals of media law, the TDLC has held: *"[I]n the Tribunal's view, considering the aims of the law, the interest at stake is that the social, cultural and political content communicated through a mass media firm could be verified, compared or contrasted with other media. In this sense, the provision does not require to vary the analysis from the one performed regarding any other merger under the competition law provisions, however, it orders for the analysis to take into account the additional consideration of the effects a merger in the media industry can have with respect to pluralism in the media and freedom of speech",* TDLC, July 27th, 2007, Decision N° 20/2007, *(Iberoamerican),* Rc. 8°.

5 See cases in telecommunications and concession sectors detailed below.

7. The RCD is frequently raised. The existence of regulation is used to build a defence in almost every case regulation exists. Defendants commonly state that '*competition law does not apply to the issuer or enforcer of a certain regulation*'[7]; that '*the plaintiff should comply with the regulation too*'[8]; or that the dispute '*is beyond TDLC's jurisdiction*'[9], amongst others.

8. Notwithstanding the foregoing, the RCD has had limited legal consequences. Competition authorities almost never refrain from intervention in the corresponding sector. Only occasionally the Supreme Court has held that the TDLC lacks jurisdiction in a given area.[10]

9. In its assessment, the TDLC reviews the purpose of regulation and whether the latter ensures compliance with competition law. The TDLC also analyses how regulation influences the defendant's behavior. When reviewing the conduct of a legal monopoly, the TDLC has identified a special duty of the monopolist to abide competition law and to refrain from violating it[11]. A negligent behavior of the regulator regarding competition law enforcement is frequently considered a mitigating circumstance to reduce the fine[12].

3. Case law by sector

10. Telecommunications has been the sector most frequently subject to competition law scrutiny. There is no doubt that this sector has given competition authorities the greatest challenges in the last two decades. As technology changes "by the day", regulations have to follow lengthy political processes to adapt. Furthermore, incumbents slow those processes in order to keep the *status quo* as long as they can. Chile has not been an exception, and the TDLC has faced a variety of cases in which the incumbent resists change with anticompetitive conducts, using – unsuccessfully – defences based on telecommunication law.

11. The case law has also dealt with other regulated sectors. These include airport concessions, air transport licences, other infrastructure concessions, and ports. Also, in a slightly broader sense, activities by regional and local authorities can also be considered "regulatory" and as such they have been subject to competition law.

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6 TDLC has issued mandatory orders to regulators, *inter alia*, in *JAC* and *3G* cases, detailed below.

7 Raised by defendant in TDLC's Ruling N° 34/2005 *(Cauquenes)*, detailed below.

8 Raised by defendant in two cases in telecommunication sector, TDLC's Ruling N° 45/2006 *(Voissnet I)*, y TDLC's Ruling N° 88/2009 *(Celulink)*, detailed below.

9 Held by the Supreme Court in *3G* case, detailed below, stating that number portability (ordered by the TDLC in the reviewed decision) was a matter of regulators' jurisdiction, and thus, eliminated this tender condition

10 E.g. Supreme Court, March 29th, 2006, docket n° 383-2006, Rc. 8°, 9°, 13°, reviewing TDLC's Ruling N° 34/2005 *(Cauquenes)* (stating that public procurement is not subject to competition law). Also, Supreme Court, January 27th, 2009, docket n° 4797-2008, Rc. 12°-15°, reviewing TDLC's Decision N° 27/2008 *(3G)* (stating that number portability was a matter of regulators' and not TDLC's jurisdiction).

11 TDLC, September 30th, 2008, Ruling N° 75/2008 (*Atrex-SCL*), Rc. 64°-66°, 74°. Upheld by S.Ct. January 28th, 2009, docket n° 6545-2008; and also in TDLC, July 2nd, 2009, Ruling N° 85/2009 *(Sanitarias)*, Rc. 189°. Upheld by S.Ct., May 18th, 2010, docket n° 5449-2009.

12 See cases below.

3.1 Telecommunications

3.1.1 The incumbent as the "sheriff"

12. Cases in which the existing regulation has been part of the argument are mostly found in the telecommunication sector. The incumbent has not defend their conduct as being *allowed* by the regulation, but has justified it on the illegality of the behaviour of their competitors.

13. The main company in the fixed line segment (*Telefónica* with 65% market share in 1997) has engaged in exclusionary conducts against competitors. Its defence in those cases has been based on the alleged illegality of the activities of the entrants. The TDLC has rejected these defences, since illegalities must not be corrected by private parties and, furthermore, because it did not agree with the legal interpretation of the incumbent.

14. The first of these cases (*Voissnet I*)[13] was brought to court by a voice-over-internet-protocol (VoIP) provider who accused *Telefónica* – not only the dominant player in telephony, but also supplier of broadband – of setting technical and contractual barriers to their services by prohibiting ISP to allow VoIP services. The main defence of *Telefónica* was that VoIP phone providers needed, and lacked, a permission to operate. The TDLC considered that this type of service did not require a permission and, even if it did, it was not *Telefónica* the agent called to enforce the law. Another RCD related defence in this case was that the (then active) regulation of final tariffs aimed to assure the company with enough income to cover its costs. The defendant claimed that if the exclusionary conduct was not adopted that goal could not be reached. The TDLC rejected this argument, on the basis that tariff regulation in Chile is aimed to cover the costs of an hypothetical firm with the demand projected for the next five years, hence the income of the real firms will depend on the actual demand and technical changes in the five years term (which may be favourable or not to the regulated firm). However, uncertainty in regulation of VoIP services[14] was considered by the TDLC as a mitigating factor to reduce the fine – a criterion upheld by the Supreme Court, which further reduced the fine[15].

15. The second case was about exclusionary discriminatory price or margin squeeze[16]. The case was brought by small companies offering the service of converting calls dialled from a fixed line to a mobile phone of *Movistar* – subsidiary of *Telefónica* – or other mobile companies through a conversion device placed either in the premises of the client or the supplier of the conversion service. The accused conduct was a discriminatory increase in price by *Movistar* to the suppliers, in comparison to prices paid by final customers. The defence of *Movistar* was again about the illegality of the service. It claimed that the call was made using interconnection facilities and not paying for that service. During the trial, it was proved that there was no interconnection to be paid, since the conversion was made in a private network. Furthermore, *Movistar* itself provided the service. Another other RCD used by *Movistar* was related to the reduction of its income. The argument was rejected on the same grounds explained in the previous case (see paragraph 14 above).

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13 TDLC, October 26th, 2006, Ruling N° 45/2006 (*Voissnet I*).

14 At that time uncertainty in regulation of VoIP services meant it was not clear whether VoIP services should be regulated or not and, if regulated, what regulation was applicable.

15 Supreme Court, July 4th, 2007, docket n° 6236-2006, Rc. 33°, reviewing TDLC's Ruling N°45/2006 (Voissnet I). Also, a substantive limit was held by the Supreme Court: the TDLC cannot decide on the nature of VoIP services, whether they should be subject to regulation, or the kind of regulation (Ibid., Rc. 34).

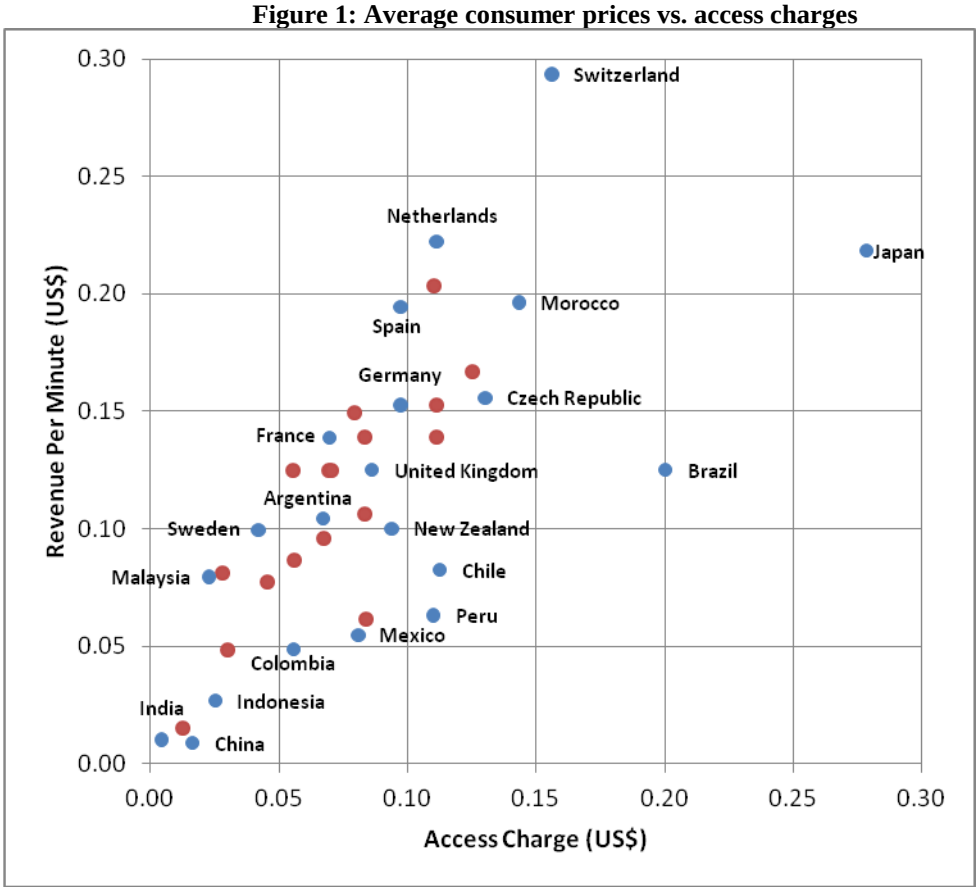
16 TDLC, October 15th, 2009, Ruling N° 88/2009 (*Celulink*). Upheld by S.Ct., July 7th, 2010, docket n° 8077-2009.

3.1.2 What comes now: on-net/off net rates

16. The TDLC has stated in many rulings that additional measures must be taken to increase competition in the telecommunication sector. In particular, it recommended the authority to implement the numeric portability – a recommendation finally materialized in a law passed in 2010.

17. Another barrier to competition identified by the TDLC is the huge difference between off-net and on-net tariffs. This difference reduces mobility and grants an artificial advantage to bigger companies.[17] It is urgent to solve this problem, since additional spectrum has been opened. In 2011, two new entrants should start their operations and will face the challenge to win market share against various incumbents with investments in both type of platforms – particularly *Movistar*, with 65% in the local network and 43% in the mobile phone industry. Given this scenario, the TDLC called a public audience to study the possibility to dictate a general instruction to regulate the matter.

Figure 1: Average consumer prices vs. access charges



Source: Global Wireless Network

18. The TDLC has *sua sponte* authority to issue general regulations for an economic sector. The TDLC has been careful in the use of this faculty. In fact, this is the second time in almost seven years that

[17] Mobile companies shares: *Movistar* 43%, *Entel* 39,6% and *Claro* 17,6%. The problem may worsen as *Movistar* (formerly *Telefónica*, the incumbent) has launched a new kind of plans. These include lower tariffs for calls made by subscribers of its local platform to their mobile network, distorting competition not only in the mobile sector but also in the fixed sector.

the TDLC has called a public audience to decide whether a sector needs a general ruling issued by the TDLC to improve its competition environment[18].

19. Although the opinions of the players have not been yet analyzed, it is possible to envision a hypothetical RCD in this case. One obvious justification for the difference in off-net and on-net rates is the access charge paid to the receiving company but not paid when the call is originated and terminated in the same network. Since access charges are regulated, companies might argue that the TDLC cannot instruct them to charge less than the regulated price for terminating a call of the competitor and that the only way to equate off-net and on-net prices would be to increase on-net charges. The TDLC may have to decide whether it can order the companies to charge access prices more aligned with what each firm charges for an on-net call, considering that the regulated access charge is only a legal maximum or a price cap.

3.2 Cases in other sectors

3.2.1 Collusion in rural bus transportation

20. The TDLC has dealt with several cases of collusion in rural bus services. The facts are largely similar: there is an incumbent association of independent buses and a new entrant with lower rates. The association reacts setting lower prices, new frequencies and, sometimes, using violence. In two of these cases, the local transport authority called them to reach an agreement. When brought to the TDLC by the FNE, the defendant used the intervention of the authority as a defence. The TDLC accepted the defence only to reduce the corresponding fine[19].

21. For example, in *Transportes Central – Osorno*[20] independent urban transport companies brought to an end a price war by fixing prices. To reach this solution, the regional transport authority facilitated its premises and even suggested companies to finish the price war by an agreement. The FNE filed a complaint against this cartel. The TDLC condemned the cartel, imposed fines on its members and released the regulator from a fine on the sole circumstance that the authority was not included in FNE's complaint. The involvement of the authority in facilitating the infringement to competition law was considered by the TDLC as mitigating factor[21]. The Supreme Court upheld TDLC's decision, and increased the fines[22].

3.2.2 Government auctions

22. Another interesting case (*P.T. Los Andes*[23]) was an accusation made by importers who used the premises of a land port where different authorities made the inspection of the load against the port operator. The complaint was grounded on violations to the concession contract and excessive pricing, which constituted an exploitative abuse of dominance. The defendant explained that this monopoly was a

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18 The first time it did it (in the market for waste collection, transport, sewage and disposal) was to rule on a matter that had a long and repetitive jurisprudence, so no new ideas were introduced. The only aim of the general regulation was to reduce the number of cases consulted, on the same grounds, before the TDLC.

19 TDLC, January 7th, 2010, Ruling N° 94/2010 (*Transportes Central - Osorno*); TDLC, August, 11th, 2010, Ruling N° 102/2010 *(Agmital)*, upheld by Supreme Court, January 14th, 2011, docket n° 6615-2010.

20 TDLC, January 7th, 2010, Ruling N° 94/2010 (*Transportes Central - Osorno*).

21 TDLC, January 7th, 2010, Ruling N° 94/2010 (*Transportes Central - Osorno*) Rc. 90°-92°, 99°

22 Supreme Court, December 29th, 2010, docket n° 1746-2010, Rc. 12°, reviewing TDLC's Ruling N° 94/2010 (*Transportes Central - Osorno*)

23 TDLC, July 21st, 2010, Ruling N° 100/2010 (*P.T. Los Andes*) [exploitative abuse].

result of a competitive process carried by the Ministry of Public Works, so there was no possibility of abuse.

23. The TDLC compared the services actually rendered by the defendant with the activities included in the auction basis. It determines the defendant was charging for inexistent services and therefore abusing its monopoly power[24]. In its judgement, the TDLC discarded the RCD, holding that concessionaire should also abide provisions of the Competition Act. The TDLC imposed the defendant a US$ 350,000 fine. In setting the fine the TDLC took into account the fact that the Ministry of Public Works not only accepted the terms of the auction, but also, when questioned by the port users if the charges were correct, it gave a positive answer[25].

24. The Supreme Court discarded the RCD allegation invoked by the defendant[26]. Nonetheless, the Court overturned the TDLC's decision, holding that the matter was not a competition law issue because the problem was by nature outside the remit of competition law and no evidence on the market's effects had been submitted[27].

3.2.3 Airports

25. In *SCL-Delfos*[28], the FNE alleged that the defendant (an airport concessionaire, "SCL") should allocate sub-concessions for land transport services trough competitive tender processes.[29] In its defence, SCL argued that concession regulations do not order a specific mechanism for allocating sub-concessions. In addition, SCL argued that the regulator did not enforce any competition principle. The TDLC dismissed SLC's argument. The TDLC held that concessionaire should not only abide specific regulation, but also competition law. The absence of an appropriate regulation or the lack of an effective enforcement does not exempt the concessionaire of abiding competition law[30]. However, the TDLC partially upheld a different argument. SCL claimed it had acted under the conviction that the obligation of allocating sub-concessions through a competitive tender had been explicitly overturned. Even though an obligation ordering an open tender was still in force, the TDLC deemed reasonably that SCL understand that this was not the case, because the antitrust decision that established the obligation had been partially overturned in several other parts.[31] The TDLC did not impose any fine for the infringement, only injunctions[32].

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24 The auction was allocated according the lowest bid for the general use of the premises, but the main service (support for the authorities' inspection) came predetermined in the basis of the auction considering the full unloading and loading of the truck. That service was never rendered because only a sample was taken from the inspected trucks.

25 TDLC, July 21st, 2010, Ruling N° 100/2010 (*P.T. Los Andes*) Rc. 15°-17°.

26 Supreme Court, January 28th, 2011, docket n°6100-2010, Rc. 6°, reviewing TDLC's Ruling N° 100/2010 (*Pto.Terrestre Los Andes*)

27 Supreme Court, January 28th, 2011, docket n°6100-2010, Rc. 14°, reviewing TDLC's Ruling N° 100/2010 (*Pto.Terrestre Los Andes*)

28 *TDLC's Ruling N° 61/2007* [exploitative abuse].

29 The concessionaire has the legal right to grant "sub-concessions", whereby a third party (the "sub-concessionaire) "supply the required service.

30 TDLC, December 27th, 2007, Ruling N° 61/2007 (*SCL-Delfos*) Rc. 16°- 18°, 54°.

31 A previous antitrust decision (*Comisión Preventiva Central, Dictamen N° 1202/02*) ordering an open tender for allocating sub-concessions had been overturned by *Comisión Resolutiva, Resolución N° 684/2003*. However, that decision did not overturned the competitive tender obligation. These two "Comisiones" were predecessors of the TDLC.

26. In *Atrex-SCL*[33] courier companies argued that the defendant, an airport concessionaire (SCL) was behaving in violation of the concession contract, amongst others, by charging excessive pricing, which constituted an exploitative abuse of dominance. The TDLC adjudicated in favour of the plaintiffs. The TDLC declared an abuse of dominance had taken place, issued an order to cease and desist and imposed the defendant a US$ 1,3 m fine.

27. In its ruling, the TDLC assessed the following argument raised by the defendant: the regulator had reviewed the conducts (allegedly illegal) and did not challenge them nor found any infringement to competition provisions in the regulation. The TDLC partially dismissed the argument holding that negligence of regulator in performing its enforcement duties does not clear the infringement nor prevents the TDLC from imposing a fine. However, it considers the same argument as a mitigating factor and sufficient ground to reduce the fine[34]. The TDLC granted the same mitigating effect to a similar argument raised by a defendant, also a concessionaire, in another case[35].

28. The TDLC also held that the approved regulations do not totally guarantee that a competition law infringement will not occur, nor they mitigate concessionaire's liability[36]. On the contrary, concessionaire's liability is particularly serious due to its legal monopoly. The existence of regulation for a legal monopoly increases its duty of preventing a competition infringement, making the infringement more serious when determining fines[37].

3.2.4 Air Frequencies: Auction to the higher bid in a concentrated sector

29. The most interesting case in which the RCD has been alleged so far is *JAC*[38]. The FNE filed a complaint before the TDLC against the aviation regulator, after unsuccessfully attempting to persuade it of adopting pro-competitive regulations. The issue at stake concerned the mechanism in force for allocating air routes licences (an essential facility for providing air transport services). In the FNE's view, tender conditions for allocating licences favoured the dominant company and hence were anticompetitive.

30. According to air transport regulations, when additional air frequencies are available in negotiations between Chile and any other party with restricted skies, the frequencies are allotted among national operators to the higher bid. Being a highly concentrated market, it is not surprising that frequencies of any commercial interest are almost always allocated to the dominant company, LAN[39]. It is interesting to note that, from a long list of countries analyzed, only Chile and Peru contemplate this simple mechanism of allocation.

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32 TDLC, December 27th, 2007, Ruling N° 61/2007 (*SCL-Delfos*) Rc. 48° - 56°.

33 TDLC's Ruling N° 75/2008 [exploitative abuse].

34 TDLC, September 30th, 2008, Ruling N° 75/2008 (*Atrex-SCL*), Rc. 67°, 74°. Upheld by S.Ct. January 28th, 2009, docket n° 6545-2008.

35 TDLC, July 21st, 2010, Ruling N° 100/2010 (*Pto.Terrestre Los Andes*), Rc. 110°. In this case, regulator had dismissed concessionaire's customer claims, which in TDLC's view, gave the concessionaire the idea of legality. TDLC's ruling was overruled by Supreme Court, January 28th, 2011, docket n°6100-2010.

36 TDLC, September 30th, 2008, Ruling N° 75/2008 (*Atrex-SCL*), Rc. 64°-66°, 74°. Upheld by S.Ct. January 28th, 2009, docket n° 6545-2008.

37 *Ibídem*, and also in TDLC, July 2nd, 2009, Ruling N° 85/2009 *(Sanitarias)*, Rc. 189°

38 TDLC's Ruling N° 81/2009 *(JAC)* [regulator's anticompetitive activity]. January 16th, 2009

39 Market share of LAN in main routes: Chile-U.S.A 80%, Chile-Spain 85%, Chile-Brazil 57%, Chile-Argentina 72%, Chile-Mexico 98%, Chile-Peru 85%.

31. The first time when one of such auctions was brought to the TDLC, the sector authority was absolved, since the *reglamento* ordered this special kind of auction[40]. But, the TDLC recommended changes to the *reglamento*[41]. At the time of *JAC*, the *reglamento* had not yet been changed. This time the TDLC ordered to change the terms of the auction and banned allocations of more than 75% of the air frequency to any particular operator in the route under scrutiny[42].

32. The Supreme Court overturned the TDLC's decision[43], admitting the RCD allegation. The Court overruled the prohibition on the grounds that the *reglamento* did not allow any other allocation parameter. Being this one a clear and direct interpretation of the law, the TDLC lacked the power to change it. In practice, this means that if there are regulations in force, they should be applied in spite of its anticompetitive effect.

33. In conclusion, although Chilean Competition Act states that the TDLC can correct any conduct impairing "free competition", it is not yet clear at what kind of norms it can interfere. It seems to be a consensus that if the law, or its *reglamento*, grants a sector authority some discretion to act, it should act in the way that is less competition restrictive. But the issue is not settled in cases where there is no room for interpretation. According to the case presented above, the TDLC can only recommend changes to the corresponding law or administrative ruling that causes the anticompetitive conduct, but it cannot impose the regulator a duty to refrain from enforcing a legal regulation.

34. Regarding the recommendations of changes in regulations, the experience has been rather frustrating for the TDLC. In most cases, they have been totally ignored by the executive. This behaviour has led to the opinion that a change in the law is called for. The change would require the executive branch at least to explain why the recommendation is not applied.

4. Summary and concluding remarks

35. Table 1 summarizes different legal consequences of the RCD.

Table 1: RCD in Chilean competition Law

Allegation	Cases[44]	Legal consequence	
		TDLC	Supreme Court
A new entrant should abide with the same regulations than the incumbent; otherwise the entrant violates regulation; ensuring regulation enforcement exempts defendant from a competition law violation.	*Voissnet I* [exclusionary abuse] *Celulink* [exclusionary abuse]	RCD was rejected	RCD was rejected
Regulations are not pro-competitive; TDLC cannot discard regulation, cannot fill out incomplete regulation.	*JAC* [regulator's activity]	RCD was rejected	Grounded on RCD, overruled TDLC's decision

40 See note 3 above.

41 Ruling N° 44/2006.

42 The TDLC also recommended immediate unilateral openness of Chilean skies, both for international and domestic flights.

43 Supreme Court, June 15th, 2009, docket n° 1855-2009, Rc. 8°, reviewing TDLC's Ruling N° 81/2009 *(JAC)*

44 Cases detailed above.

Regulations are enough guarantee that competition principles are abided.	*Atrex-SCL* [exploitative abuse] *Sanitarias* [exploitative abuse] *Transportes Central – Osorno* [horizontal agreement]	RCD was rejected. Legal monopolist's has a special duty to abide competition law	RCD was rejected
Regulator facilitated the infringement; regulator did not enforce competition law; this should exempt or mitigate defendant's liability for a competition law infringement.	*Agmital* [horizontal agreement] *Atrex-SCL* [exploitative abuse]	RCD was considered a mitigating factor	RCD was considered a mitigating factor
	P.T. Los Andes [exploitative abuse]	RCD was considered a mitigating factor	--- (overruled on different RCD grounds)
Uncertainty or ambiguity in regulation should exempt or mitigate defendant's liability for a competition infringement.	*SCL-Delfos* [exploitative abuse] *JAC* [regulator's activity]	Defendant exempted from a fine on the basis of RCD	--- (upheld on different grounds)
TDLC lacks jurisdiction; defendant is not subject to competition law; the matter is not framed as a competition law issue.	*P.T. Los Andes* [exploitative abuse] *Cauquenes* [regulator's activity]	RCD was rejected	Grounded on RCD, overruled TDLC's decision
	Voissnet I [exclusionary abuse]	RCD was rejected	Grounded on RCD, overruled specific recitals of TDLC's decision
Regulation should not be applied on the basis of analogy;	*Sanitarias* [exploitative abuse]	RCD was rejected	--- (upheld on different grounds)
An adversarial proceeding is not the appropriate procedure for the TDLC to issue recommendations to regulators	*JAC* [regulator's activity] *Sanitarias* [exploitative abuse]	RCD was rejected	Grounded on RCD, overruled recommendations contained in TDLC's decision

36. Chilean competition authorities defend a broad application of competition law in regulated sectors. Therefore, the RCD has been frequently rejected, and its scope remains limited.