

Legal Alert: The National Economic Prosecutor will prioritize scrutiny of the labor market in 2024



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The National Economic Prosecutor, Jorge Grunberg, announced during the Competition Day event held on December 19 that in 2024, the focus of the watchdog will be on the labor market. The event is organized annually by the National Economic Prosecutor's Office (FNE).

In his speech at the event, the Prosecutor emphasized the role of the FNE in investigating and overseeing the labor market, which is subject to the rules of competition like any other market; particularly regarding potential anti-competitive effects on workers.

The National Economic Prosecutor highlighted three behaviors in this market:

i. Collusive Agreements: Mr. Grunberg pointed out 'wage fixing agreements' are price-fixing agreements. Agreements in which competing companies agree not to hire workers from other companies, known as 'no poaching agreements,' are market allocation agreements. Both cases are anti-competitive and constitute a 'hard cartel,' for which no market power is required, and sanctions, including criminal penalties, can be applied.

ii. Exchange of sensitive commercial information between competitors: The National Economic Prosecutor emphasized that practices such as exchanging information about current and future salary amounts can constitute a collusive agreement. He highlighted the role of trade associations in creating instances where such exchanges may occur.

iii. Mergers and Acquisitions: He explained how companies can obtain or increase their market power regarding the hiring of

employees through a concentration operation. This can worsen the labor conditions offered to workers. The National Economic Prosecutor also mentioned the implications of 'non-solicitation' agreements or not soliciting the hiring of workers from the counterpart, among the merging companies, stating that they could be legitimate as long as they are limited in scope, geographic, and temporal terms.

Nancy L. Rose, a guest at the event, emphasized the importance of the Prosecutor's statement regarding this market, which aligns with international trends.



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