

Legal Alert: National Economic Prosecutor's Office publishes its preliminary Report on the Accommodation Market



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On December 28, 2023, the National Economic Prosecutor's Office ("FNE") published its preliminary Report on the Accommodation Market ("Report"), focused on platforms and short-term rentals ("STRs"). This Report is part of a process that started in March this year and is now in a process for **public consultation until January 29, 2024**, by which interested parties may submit their comments to the Report.

For the drafting of the Report, the FNE segmented the accommodation market into (i) the accommodation, differentiating between traditional accommodations and STRs – but emphasizing the competitive pressure that the latter would exert on the former –and (ii) the platform.

The FNE evaluated three potential market competition limitations, which are referred to below.

1. Regulatory framework and its impact on the competitive dynamics of the market: The FNE made particular reference to the externalities generated by STRs and the shortcomings of the current framework.

In this regard, it recommended the following amendments:

a. Recognizing Platforms and STRs within the legal framework:

Recognizing platforms and STRs as tourism service providers
Incorporating registration obligations, legal representation, and other obligations for relevant platforms in the Chilean market.

b. Level the regulation they face:

Generating an equitable regulatory framework.
Generating best practice guidelines to regulate the non-traditional segment in real estate co-ownership regulations.
Modifying the tax regime applicable to the accommodation market.

c. Modify the current regulation in order to facilitate entry into the market:

Simplifying registration in the registry kept by the National Board of Tourism (SERNATUR).
Simplifying the permits to register accommodations.
Generating a new guide to incentivize registration.
Improving the policy for the generation and dissemination of information in the market.

2. Existence of most favored nation or price parity clauses: The FNE found the existence of clauses by which accommodations are obliged, in agreements with platforms, to offer equal or better conditions than those offered in any other booking channel. It therefore recommended the opening of an investigation in this respect for possible infringements of competition.

3. Existence of algorithmic price suggestions: Notwithstanding the recognition of the statistically significant impact they have on the pricing decisions of accommodations, no anticompetitive effects were evidenced; on the contrary, it was found that these mechanisms tend to set lower prices (the suggestion being a more efficient price).



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