

**INSTITUTIONS OF COMPETITION LAW
THE COMPARATIVE ANALYSIS**

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INTRODUCTION

The aim of this paper is to compare and contrast the institutions involved in the regulation, implementation and enforcement of competition law and policy in the United Kingdom with those existing in Colombia. The comparison is made with the purpose of establishing the dimension of competition law around the world (that is why the analysis is between two different countries from two different systems of law) and to give and create an opinion about the globalisation of this multidisciplinary topic.

In that sense, the essay is divided in three main sections: the first one, which describes competition law in both countries, in order to establish similarities and differences between them; the second, which describes the authorities involved in competition law and policy; and the third one, the conclusion of the comparison of both systems and their authorities.

1. Substantive Law

Due to its importance and multidisciplinary status, competition law is spread all over British and Colombian Legislation, that is to say, both countries have some basic statutes and lots of delegated legislation based in those statutes, however, there are competition law based provisions included in many other enactments that are supposed to regulate matters unrelated to competition.

This section deals with the basic legislation of the mentioned jurisdictions and when necessary, refers to the statutory instruments.

1.1. United Kingdom

In the United Kingdom there have been a significant amount of legislative changes in order to adapt competition law to the needs of the market and its development, and of course, for implementing the EC Legislation. The most important acts in this order of

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ideas are: the *Monopolies and Restrictive Practices Act 1948* (repealed), the *Monopolies and Mergers Act 1965*¹ (repealed), the *Fair Trading Act 1973*, the *Restrictive Practices Court Act 1976* (repealed), the *Resale Prices Act 1976* (repealed), the *Restrictive Trade Practices Act 1976* (repealed), *Restrictive Trade Practices Act 1977* (repealed), the *Competition Act 1980* (almost all its provisions are repealed) and the *Competition Act 1998*.

Nowadays, competition law in the United Kingdom is regulated primarily by: the *Fair Trading Act 1973*; the *Competition Act 1998*; and the *European Community Legislation* (implemented or directly applicable, e.g., European Council Regulations).²

The law of this jurisdiction mainly alludes to monopolies and mergers (1973 Act), anticompetitive agreements and abuse of the dominant position (1998 Act), inter alia.

1.1.1. The Competition Act 1998

This statute is the most recent for competition matters in the United Kingdom and is the result of the introduction of a prohibition against anticompetitive agreements and abuses of the dominant position based on the European Community Law, more precisely on articles 81 and 82 of the European Community Treaty.

The statute is divided in IV parts and 14 schedules, being Chapter I (Agreements) and Chapter II (Abuse of Dominant Position) of Part I (Competition) the important ones for the scope of this section of the essay.

1.1.1.1. Chapter I (Agreements)

Under this chapter and more specifically under section 2 of the act, any agreements between undertakings, decisions by associations of undertakings or concerted practices which may affect trade within the United Kingdom and have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom, are prohibited,³ void and subject to fines unless they are covered by an exemption or they are excluded by section 3 of the same statute.

¹ This act introduced merger's control to the United Kingdom for the first time.

² There is also a considerably amount of regulations for specific sectors, delegated legislation and/or statutory instruments that would be mentioned in this paper as far as they become relevant for its subject.

³ Section 2 (2) of the Act provides a numerus apertus or merely enunciatively list of prohibited agreements.

From the described provision and its interpretation⁴ by the competent authorities, it is inferred that the term *Agreement* covers any kind of agreement (between two or more undertakings), formal or informal, legally enforceable or not, implicit or explicit, written or oral, that is to say, any kind of approach between parties with enough entity in order to get them to consensus in one or another way; *Undertaking* covers all form of commercial enterprise, incorporated or unincorporated, carried out by natural or legal persons, inter alia, corporations, partnerships, sole traders, trade associations, state-owned companies, non-profit organisations, etc (for the scope of the Chapter I prohibition, the relation between parent companies and its subsidiaries sometimes can be considered as a single economic unit, therefore, the prohibition would not be applicable); the term *decisions by undertakings* covers any decision made at the heart of any kind of association in which undertakings, as described above, are or can become members, participate or get involved; and *concerted practices* means a form of co-ordination between enterprises without the form of an agreement but that leads them to co-operate affecting competition, in other words, it is used to include any type of co-operation beyond the meaning of “agreement”, i.e., tacit co-operation.

An agreement, decision or concerted practice between undertakings would fall into the Chapter I prohibition if its object is to prevent, restrict or distort competition within the U.K., if it has appreciable effects on the U.K. and/or if it is implemented or intended to be implemented in the U.K.⁵ In other words, an agreement can be prohibited because of its object or because its effects (even potential effects).

The Chapter I prohibition is not an absolute prohibition, actually, there are three types of exemptions: the first one, the *individual exemption*, can be granted to individual agreements if they satisfy the requirements of section 9 of the Competition Act 1998; the *block exemption* which is granted not to individual agreements but to a category of agreements that also satisfy the section 9 requirements; and *parallel exemptions*, which are the individual or block exemptions granted by the European Commission (the agreements covered by this exemptions if produced or may produce adverse effects on U.K.'s market, can be modified by the U.K. national authorities, i.e., imposing conditions over the exemption or even cancelling it).⁶

This chapter of the 1998 Act, also excludes some agreements due to its irrelevance for competition or because they are subject to scrutiny under other statutes, i.e., concentrations and mergers. Meanwhile, the rest of the chapter deals with notification of agreements to the competent authorities, their decisions and effects.

⁴ For interpreting the Competition Law 1998 Act is necessary to apply the same principles that the European Community authorities use in order to interpret articles 81 and 82 of the E.C. Treaty (Competition Act 1998 section 60).

⁵ This form of establishing if an agreement is or is not covered by the prohibition leaves a big percentage of the decision on the competitive authorities' hands and on the examination of the relevant market and the economic context.

⁶ Agreements covered by an exemption, are still anticompetitive agreements, but are authorized by the respective authorities.

1.1.1.2. Chapter II (Abuse of a Dominant Position)

Under this chapter, any conduct by one or more⁷ undertakings, which amounts to the abuse of a dominant position in a market, is prohibited if it affects or may affect trade in the United Kingdom, in other words, any anticompetitive behaviour by a dominant undertaking is prohibited due to its effects or potential effects and can be punished (subject to a fine).⁸

For violating the Chapter II prohibition, an undertaking has to be dominant in the market and abuse of that dominance. Therefore, there are to steps in order to establish if there is a violation or not, the first one is to determine if there is a dominant position in the market, and the second one would determine if there is an abusive behaviour by the undertaking.

Dominance has been described or defined by the European Court of Justice as “(...) a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of consumers”;⁹ and *market* refers to the geographical area in which the undertaking operates, the kind of products or services offered by it and the possibility for the consumers to find substitutes to those products or services. The first element analysed in order to establish dominance is the undertaking’s market share, the evolution of the latter and the way in which that market is divided among the other undertakings (number and size of those competitors). There are also other relevant elements to achieve the same objective, like the existence of high entry barriers in the market and the capacity of a determined undertaking to increase those barriers preventing competition by avoiding the entrance of new competitors.

To abuse of a dominant position means to behave in any way that can substantially impede competition, that is to say, to act in a harmful way based on the dominant position and apart of taking a fair advantage of economical superiority, e.g., imposing unfair purchase or selling prices; predatory prices; limiting production, markets or technical development to the prejudice of consumers; applying different trading conditions to equivalent transactions, thereby placing certain parties at a competitive disadvantage; and attaching unrelated supplementary conditions to contracts. The abusive conducts are analysed objectively in order to assess if they are affecting competition or if they can affect competition, therefore, this kind of abuse has the same character of Chapter I prohibition, it is prohibited because of its object and/or because its effects (even potential effects).

⁷ Here, the act includes the possibility of the existence of a dominant position held by a group of companies.

⁸ Again, we can find a numerus apertus or merely enunciatively list of prohibited conducts [section 18(2) of the 1998 Act].

⁹ United Brands vs. EC Commission (Case 27/76) 1978.

The rest of the chapter deals with the same aspects that Chapter I, but with one essential difference, there is no possibility for one of this conducts to be exempt of the scope of the chapter II Prohibition.

1.1.2. The Fair Trading Act 1973

There are some areas of competition law that the Competition Act 1998 does not cover or, situations that affecting competition in an unacceptable way (impeding, preventing, restricting, etc.) would escape from the scope of the prohibitions contained in Chapters I and II of the act. Therefore the 1998 Act did not repeal the Fair Trading Act 1973, in order to maintain the competition scrutiny over monopolistic situations and mergers (inter alia).

1.1.2.1. Mergers

Mergers are defined in the 1973 Act as the situation in which two or more *enterprises* have ceased to be distinct or are making arrangements to do so. Under Section 64 of the Act, not only mergers as legally defined are covered, but also the acquisition or transfer of assets with enough entity to be qualified as a transference of activities or part of the activities from one company to another.¹⁰

The term *ceasing to be distinct* is also explained by the Act in section 65, which includes: the agreement in which two or more enterprises arrange for one or some of them to close down their operations (all or part of them) in order to avoid competition between them; and when they come under *common ownership or control*. The Act refers to common control in three different levels, the first one, which refers to the situation in which two or more companies are controlled by the same person or group of persons in terms of company law; the second one, in which one person or group of persons has the ability to control directly or indirectly its policy; and the third one in which the same person has the capacity to materially influence, directly or indirectly the policy of the enterprises.¹¹

However, not all mergers are under the scope of the act in order to be subject to competition law regulations. Mergers have to be examined under the assets and share of supply thresholds, that is to say, a merger would be subject to an investigation under the 1973 Act if as a result of its implementation it creates or enhance a 25 per cent share of supply of a particular service or good in the United Kingdom or a substantial part¹² of it;

¹⁰ Enterprises are defined by the act as the activities or part of the activities of a business [section 63 (2)].

¹¹ Any change on the control of the company can be regarded as a merger in terms of section 65 of the Act.

¹² "Substantial part" means relevant according to its size, population, social, political and economical significance.

and /or if the merger involves the acquisition of assets of £70 million or more on the balance sheet and calculated over the assets acquired worldwide.

After establishing if the merger is or is not, under the scope of the act, the competent authority would apply the public interest test, that is to say, analyse if it is against the public interest and if so, would prohibit or condition it.

1.1.2.2. Monopolies

As it was mentioned before, the Fair Trading Act 1973 is still in force in order to fill the gaps existing between Chapters I and II of the Competition Act 1998. As a matter of fact, it is supposed that Chapters I and II prohibitions are meant to control or cover almost every situation that can be related to a monopoly or oligopoly situation, but there are certain circumstances in which a monopoly holder is not abusing of its dominant position nor entering into agreements, and it is still harmful to competition law. This does not mean that in those situations in which a monopoly situation is covered by both of the enactments (1973 and 1998), the competition authorities are going to apply the two of them to investigate the violation.

There two kinds of monopolies under the 1973 Act: (1) the scale or structural monopoly is the situation in which one person supplies in the United Kingdom at least 25% of the goods or services of any description, or when the quarter of products and/or services is supplied to the same person (the term “person” includes natural and legal persons and single economic units, i.e., parent and subsidiary companies); (2) the complex or behavioural monopoly consist in the situation in which two or more persons (not being single economic units) supplying or consuming at least one quarter of the goods of services of any description within the United Kingdom, engage a similar conduct or parallel behaviour without the existence of an actual agreement to do so.

Like mergers, monopolies are also tested by public interest, that is to say, if the competition authorities find that there is a monopoly and that monopoly is against the public interest, they will apply the remedies contemplated in the law.

1.2. Colombia

In this country, competition law has two different levels of protection or statutory levels. In other words, its provisions are enacted in laws with different hierarchy, e.g., the Political Constitution and ordinary laws.

The most important law in hierarchy order for Colombia is its Political Constitution 1991, also called “law of laws”. Therefore, to have competition “health” enacted as a

constitutional principle means that there are special remedies and procedures in order to protect and ensure its fulfilment by citizens and authorities.

The secondary level in which competition is regulated and/or protected, developing the constitutional principle is by an ordinary law, which is mainly the “Ley 155 de 1959” as amended (The Promotion of Competition Act 1959 or 155/59 Act). There are some other statutes regulating competition law and policy for certain sectors, like for example public services, telecommunications (especially in the issues related to essential facilities), health companies (private institutions), financial institutions and stock exchange markets.

The prohibited or regulated activities in order to protect, promote and enhance competition are: anti-competitive agreements; Abuse of a Dominant position; economic concentrations; and monopolies.

1.2.1. The Constitutional Principle

Competition Law is included in the economical chapter of the Colombian Constitution, more precisely in article 333, which establish that is one of the main aims of the State to impede any action that can obstruct or restrict the economical and competition freedom and to avoid and control any possible abuse of a dominant position made by a natural or legal person in the national market, by enacting the respective regulations. The interpretation of this principle leads to the conclusion that it covers any anti-competitive behaviour and to affirm that in Colombia any situation or actions that can detriment competition are strongly forbidden.

As it was outlined before, is a constitutional imperative rule for the state to protect and promote competition; that is to say, the protection and promotion of competition is not only a faculty or power of the Colombian State, but one of its most important duties.

There is another specific prohibition included in the Constitution in order to promote and protect competence, which is the prohibition to create monopolies in any sector of the economy; as a matter of fact, the only one that can create monopolies in very specific areas (for ensuring the universal service) is the State, but it also has to start dismantling its monopolies and has to enact some rules in order to dismantle the private ones.

1.2.2. The Promotion of Competition Act

This is the main statute for competition law in Colombian jurisdiction, which deals with every single aspect that has to do with promotion, protection and enhancement of competition. This first approach to the comparison between the Colombian and British substantive law is enough to conclude that legislation on this matter does not differ very much from a country to another.

1.2.2.1. Anticompetitive Agreements

The first prohibition contained in the 155/59 Act deals with anti-competitive agreements. In that order of ideas, article 1 establishes that any agreement or convention¹³ which has for direct or indirect object or effect the limitation of production, supply, distribution or consume of main materials, products, merchandise or services, national or foreign and in general any practice, procedure or system to limit the free competence and/or maintain or determine inequitable prices, is forbidden.

In that order of ideas, there is like in UK law, a numerus apertus list of agreements that are considered as anticompetitive agreements: those for fixing purchase or selling prices directly or indirectly; share markets or sources of supply, especially between producers and distributors; apply dissimilar conditions to similar or equivalent transactions with third trading parties, creating competitive disadvantages and/or harming the consumers; limiting the technical development; and stop producing or consuming goods or services in order to avoid competition (inter alia).

This prohibition is applicable to any natural or legal person, even the state-owned companies and the state itself. The remedies contemplated in the Act for violating the prohibition are: the agreement would always be absolutely void because of its illicit or illegal object; fines for the subscribers depending on the damage caused to competition; and in the worst case the business would be sealed for a determined period of time by the competent authority.

There are also some exceptions to the scope of this prohibition stated by law (agreements for: the investigation, cooperation and development of new technologies; and to make accessible the essential facilities for the market operators) and the competent authority can also grant exemptions but only in order to protect the stability or to stabilise a basic sector¹³ of the production of goods or services which have significant relevance to the economy in general.

1.2.2.2. Abuse of a Dominant Position

The Political Constitution forbids the abuse of a dominant position, as it was stated above, but it does not describe what is considered as an abuse or as a dominant position. Therefore, the 155/59 Act contains a description of the criteria in order to determine if there is a dominant position in the market and if the holder of that position is abusing of it. Again, like in British legislation, there are to steps in order to establish if there is a violation of the prohibition or not, the first one, to determine if there is a dominant position in the market, and the second one to analyse if there is an abusive behaviour of that position.

¹³ The Civil Code defines what does agreement or convention means, therefore this terms cover any kind of agreement, formal or informal, oral or written, legally enforceable or not, implicit or explicit.

The first thing to do before studying the mentioned criteria is to determine the scope of the prohibition, that is to say, this prohibition is applicable to any natural or legal person, the same as the anticompetitive agreements prohibition. The remedies are pecuniary penalties and the suspension of the business or the total closure of it.

In order to determine if there is dominance in the market, article 2 of the 155/59 Act provides a set of rules which are: when a person or interrelated group of persons produce, supply, distribute or consume a determined good or service having the power to control its prices; when that person or group of persons have a market share of 20% or above; and when that person has the power to behave independently from its competitors and to impose conditions to its costumers or consumers (inter alia).

Finally, to determine if there is an abuse or not, section 50 of the act has a numerus apertus list which includes: to establish predatory prices; to limit production, markets or technical development; making the conclusion of contracts subject to supplementary obligations by the other party or third parties; and to apply dissimilar conditions to similar or equivalent transactions with third trading parties, creating competitive disadvantages and/or harming the consumers (inter alia). In general, any conduct that prevents the entry of new competitors, try to eliminate them or avoid their expansion in an inequitable way is considered an abuse.

1.2.2.3. Economic Concentrations

The 155/59 Act establishes in article 3, that natural or legal persons who's activity is the same in relation to the production, supply, distribution or consume of a determined main material, product, merchandise or service, and with assets over \$20.000.000. pesos (approximately £6.500) that which to integrate in any form (mergers, joint ventures, conglomerates, consortiums, etc.), have to notify that intention to the competition authorities in order to get the respective authorisation. The assets are calculated individually or as a whole.

The competition authority can object the concentration or integration procedure if the new entity is able to determine the market price of the product or service harming the competitors or consumers; if it can lead to the division or distribution of the market, limiting the production, distribution or consume of the product.

The competition authority will never be able to object those integrations or economic concentrations in which the parties demonstrate that the integration would benefit and increase the efficiency of the market and the consumers and that the integration is not going to produce a decrease in the offer of the product or service. There is another limitation to the objection that is the situation in which the new entity has a market share inferior to the 20%.

1.2.2.4. Monopolies

This is the less developed area of competition law in Colombia. Nevertheless monopolies are prohibited by the constitution and reserved for the state in certain products or services, and developed by the 155/59 Act, the incipency of the Colombian market in certain economical sectors has made very difficult for the competition authority to dismantle the existing private monopolies in those sectors. The reason for that impossibility is that there are no competitors in the market, therefore, to assure the universal service in those aspects, the competition authority is not dismantling monopolies but exercising a very deep control power in order to prevent them to misbehave. These powers are given to the competition authorities and go from the permanent investigation and impose of penalties, to the fixing of prices by the government.

2. The Competition Authorities

Now that the most relevant substantive provisions on competition law had been briefly analysed, it is time to do the same with the different authorities that are in charge of applying and/or enforcing those regulations in the countries object of this study.

This section of the paper is dedicated to explain in an introductory way, the institutions or authorities that take part in competition law as regulators, enforcers or implementers. It is not the aim to describe exactly its functions due to the fact that they can change from one type of issue to another, e.g., from mergers to the abuse of a dominant position, but to describe their status and role as competition authorities.

2.1. United Kingdom

In the United Kingdom, competition policy is not only settled by the 1973 and 1998 Acts, but also by the competition authorities and the decisions they make in the exercise of their powers and faculties. There is also another important, relevant and influent factor that was mentioned before in relation to section 60 of the Competition Act 1998, that is to say, the competition policy of the United Kingdom shall always follow the same lineaments and parameters that the European Community authorities use, e.g., the European Court of Justice and/or the European Commission.

The main competition authorities in the United Kingdom are the Secretary of State, the Director General of Fair Trading (Head of the Office of Fair Trading), the Competition Commission and the Courts. These authorities deal with the competition issues within Britain, by interrelating their faculties, competences and powers. There are also other regulating authorities according to the sector of economy in which the issue is classified; this utility or sector regulators have concurrent powers with that of the Director General of Fair Trading.

2.1.1. The Secretary of State for Trade and Industry

The head, maximum authority and responsible of competition policy in the United Kingdom is the Secretary of State for Trade and Industry who has the power to make the most important and higher-rank appointments of the competition authorities, e.g., the Director General of Fair Trade, the president of the Appeal Tribunal of the Competition Commission and the Chairman of the Commission.

The way in which the Secretary of State constructs competition policy is by (inter alia): taking the final decisions in merger and monopolies situations; enacting or having the power to enact the procedural rules of the DGFT and of the Appeal Tribunal of the Competition Commission; making rules related to penalties; approving the DGFT Guidance; creating exclusions from the Chapter I and II prohibitions; and resolving jurisdictional conflicts between the DGFT and the sector Regulators. His functions are mainly legislative in relation to the 1998 Act, and he does not take part in its practical enforcement.

2.1.2. The Director General of Fair Trading

The Director General of Fair Trading is the main enforcement authority under the Competition Act 1998, that is to say, he has major powers to investigate, decide and impose penalties for violations of Chapter I and Chapter II prohibitions. He advises the Secretary of State by recommendations on mergers, and helps in the enforcement of its decisions about mergers and monopolies (having also the faculty to refer monopolies and merger situations to the Competition Commission).

The Director is also the head of the Office of Fair Trading, which assists him on complying his duties and investigating markets, watching UK, EC and international monopolies, mergers, restrictive agreements and anti-competitive or collusive practices.

2.1.3. The Competition Commission

This is a new institution or body created by the 1998 Act, which replaces the Monopolies and Mergers Commission. This new commission has to main and separate functions: the first one, the investigative and reporting function, which consists in, as its name says, investigating and reporting on issues referred to it by the Director General of Fair Trading, the Secretary of State and/or the utility regulators (when able to refer to the commission); and the appeals tribunal function which consists on hearing appeals against decisions made by the DGFT in the exercise of its powers under the 1998 Act.

2.1.4. The Courts

The role of courts under the scope of competition law consists basically in the review of decisions made by the Competition Commission Appeals Tribunal (Court of Appeals or Court of Session and House of Lords); in such case, the appeal must be based in points of law or the amount of a penalty. Courts can also deal with: the review of decisions of a procedural nature made by the Director or the Competition Commission when they are not covered by the appeal process; the enforcement of a Director's decision when it has been breached or the penalty imposed by it has not been paid; and civil claims for damages based on or caused by the violation of competition law provisions.

2.1.5. The Utility or Sector Regulators

There are some other competition authorities named Sector or Utility Regulators, which have specific functions in order to promote and facilitate competition within their sectors. These Regulators have in certain circumstances concurrent powers with the DGFT, that is to say, they can apply the Competition Act 1998. The sectors included in this provision are: telecommunications (OFTEL), gas and electricity (OFGEM: Office of Gas and Electricity Markets), water (OFWAT), rail (ORR) and air traffic services (CAA Civil Aviation Authority).

Some of the concurrent powers are to: give guidance on the application of the 1998 Act to the specific sector; consider complaints about breaches; decide if a certain conduct is against the Chapter I and Chapter II prohibitions; investigate; impose financial penalties; and give and impose directions to end infringements of the Act (inter alia).

2.2. Colombia

The Political Constitution and the 155/59 Act, does not establish directly who is the head of competition law and policy within the country. As a matter of fact, both laws make reference to the State and therefore, since 1959 it has been understood that the competition policy is established by the President as head of the State or by whom he delegate to do so. Throughout the years there have been different kinds of authorities in which the president has delegated his powers on competition matters, but since the early 70's, the competition authorities have been the same and are as follows:

2.2.1. The President

As head of the State, the President has the faculty to regulate and establish the competition policy for the country, but he has delegated all his functions and faculties in a specialized independent institution called the Superintendence of Industry and Commerce. However, he retains the power to appoint the senior staff of that institution and all members of the Advisory Council for the Promotion of Competition, being able to remove them whenever he wants; and the legislative power in order to enact regulations.

Nowadays, the way in which the President influences the competition policy is by the Minister of Industry and Trade, who advice and inform him about the main issues that the Superintendence is dealing with. In other words, when the Minister advises or reports to the President a certain issue and the latter understands that the decision must be made in a certain way, he tells the Superintendence's staff; the Superintendence staff does not have to follow the presidential advice, but normally they do so because the President is the one who appoints them.

2.2.2. The Superintendence of Industry and Commerce

This independent institution is the real authority on competition law, it has almost the same functions that the OFT has, and its head, the Superintendent, is the equivalent to the British DGFT. Its functions are to investigate, decide and impose penalties for violations of competition law, authorises economical concentrations, studies and establishes the different markets within Colombia (inter alia).

2.2.3. The Advisory Council for the Promotion of Competition

It is the advisor committee for the Superintendent, who has to fulfil its recommendations in relation to the maximum penalties, which are the suspension and/or definitive closure of the business.

2.2.4. The Courts

The role of the courts is to review the Superintendent decisions based in points of law and the amount or level of the penalties imposed by him (Administrative Tribunals). On the other hand, the Civil tribunals deal with claims of damages caused by a person as a consequence of his anti-competitive behaviour.

2.2.5. Other Authorities

As it was stated before, there are some other authorities that are involved in the enforcement of competition law depending on the issue or field; therefore, in the state organisation and with the same characteristics of the Superintendence of Industry and Commerce, there are other authorities that enforce competition law under the parameters and policy established by the mentioned Superintendence. Those authorities are: for public services the Superintendence of Public Services; for health the Superintendence of Health; for security services the Superintendence of Vigilance and Private Security; for stock exchanges the Superintendence of Values; for telecommunications except television the National Commission for Telecommunications; for television the National Commission for Television; and for financial and insurance institutions the Superintendence of Banking.

These institutions are in charge of enforcing competition law under the direction and policy stated by the Superintendent of Industry and Commerce, because they are specialised in their respective economic sectors and therefore, they have a better knowledge of how does the market operates.

CONCLUSIONS

After analysing the institutions of competition law in the United Kingdom and Colombia, *verbi gratia*, the substantial law and the authorities involved, it is possible to affirm the following:

- **Substantive Law:** There is a certain level of uniformity in relation to what is considered to affect badly or detriment competition within both countries; that is to say, both legislations consider that the essential anticompetitive behaviours are: the anticompetitive agreements; the economical concentrations in any form, i.e., mergers, joint ventures, etc.; abuses of the dominant position; and monopolies; both legislations agree in the fact that not every anticompetitive conduct is relevant for competition law, therefore, some of them have to have a determined entity in order to be under the scope of the law; the remedies and penalties vary depending on the degree of the infraction and are imposed by the same level of authorities. There is always a possibility to negotiate the terms of an agreement or an economic concentration with the competition authorities in order to make it legal; misbehaviours are considered void in both legislations; there are procedural differences but that does not mean that there is a big difference between legislations.
- **Authorities:** Both countries have almost the same main authorities with the same powers: the Colombian President advised by the Minister of Industry and Commerce has the same role as the British Secretary of State for Trade and Industry who also has a Minister advising him [the difference is that the Colombian President has delegated his powers retaining only the appointing power and the legislative power (which is not delegable) and that the Secretary of State actually decides issues involving mergers and monopolies]; the Colombian version of the OFT is the Superintendence of Industry and Commerce they have investigation and enforcement powers and are supposedly independent institutions; the Superintendent of Industry and Commerce is the equivalent of the DGFT, being both of them the real constructors of competition policy (the difference is that the Superintendent does decide in cases of mergers and monopolies and the DGFT does not).
- **Political Status:** Both main authorities, the Superintendent and the DGFT are appointed by politically invested persons, therefore, their impartiality can be affected in certain cases due to the influence of the President or the Secretary of State respectively.

After comparing two different countries from two different legal systems in the same issue and obtaining the mentioned results, it is necessary to reach an unequivocal conclusion, which is that competition law and health is a worldwide concern, and without the existence of any treaty its provisions are almost uniform in such countries. This fact leads to a more important and wider conclusion related to the harmonization of competition law due to the economic globalisation phenomenon, which is that having the same or almost the same domestic law, it would be easier to enhance international co-operation in order to achieve a healthy and fair competition environment.

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