

CANADA			
COMPETITION FRAMEWORK			
Competition Law	The Competition Act of 1889 (“Act”), of May 02, 1889, was amended on March 12, 2010.		
Competition Authority	Competition Bureau (“Bureau”). Website: http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/home Competition Tribunal (“Tribunal”). Website: http://www.ct-tc.gc.ca/		
Note that the 1976 amendments allowed violations to be sent to the Restrictive Trade Practices Commission.			
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	Yes	√	Obligations to report to the executive on on-going investigations upon request. See the Act, section 28, “[t]he Minister may at any time require the Commissioner to submit an interim report with respect to <i>any inquiry by him under this Act</i> , and it is the duty of the Commissioner whenever thereunto required by the minister to render an interim report setting out the action taken, the evidence obtained and the Commissioner’s opinion as to the effect of the evidence.”
		√	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.
		√	The Competition Authority has to report on an annual basis to the executive. See the Act, section 127, “[t]he Commissioner shall report annually to the minister on the operation of the Acts referred to in subsection 7(1), and the minister shall cause the report to be laid before each House of Parliament on any of the first fifteen days after the Minister receives the report on which that House is sitting.”
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities. See the Act, section 12, “[t]he Commissioner shall report annually to the minister on the operation of the Acts referred to in subsection 7(1), and the minister shall cause the report to be laid before each House of Parliament on any of the first fifteen days after the minister receives the report on which that House is sitting.”
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.
		X	Its activities are monitored by an independent auditor or by oversight committees.
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review. See the Act, section 74.18(1), “An appeal may be brought in the Federal Court of Appeal from any decision or order made under this Part, or from a refusal to make an order, by the Tribunal or the Federal Court.”
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	No		
Does the executive have powers to decide on specific cases based on public interest?	Yes		See the Act, section 90.1(9), “The Tribunal shall not make an order under subsection (1) in respect of (a) an agreement or arrangement between federal financial institutions, as defined in subsection 49(3), in respect of which the Minister of Finance has certified to the Commissioner (i) the names of the parties to the agreement or arrangement, and (ii) the Minister of Finance’s request for or approval of the agreement or arrangement for the purposes of financial policy.”
Does the executive retain decision-making powers over the Competition Authority?	Yes		
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes		See the Competition Tribunal Rules, section 29, “[s]ubject to rule 30, hearings shall be open to the public.”
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes		See e.g., the Act section 34(3), “[t]he Commissioner shall be paid such salary as may be from time to time fixed and allowed by the Governor in Council.”
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No		
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Single chairman.		
Are the heads appointed by a minister?	Yes		See the Act, section 7(1), “[t]he Governor in Council may appoint an officer to be known as the Commissioner of Competition.”
Are the heads appointed by representatives of more than one government branch?	No		The Governor in Council (“GiC”) is a quasi-executive body that represents the Queen. The position gives “Royal Assent” for things that the House of Commons and the Senate pass into law.
Is there a fixed period during which removal is prohibited?	No		

Is the tenure of the heads renewable?	Yes	The statute does not provide much information about the tenure and terms of commissioners. From the Bureau's website, the Commissioners are typically appointed to 5 year terms. See http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_00109.html
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	No	
ARCHITECTURE		
Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a minister?	Stand-alone agency	There are also regional offices in Halifax, Montreal, Toronto, Hamilton, Calgary, and Vancouver.
POLICY-MAKING AGENTS -DIVERSIFICATION-		
How many agencies are responsible for competition enforcement?	One agency	Similar to the United States, the Canadian Department of Justice is also charged with administering criminal portions of the Competition Act. Further, certain provisions of the Act allow private parties to initiate proceedings.
Do sector regulators have competition policy enforcement mandate?	Yes, with the Canadian Radio-Television and Telecommunications Commission ("CTRC").	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	No	
POLICY DUTIES		
Does the Competition Authority have exclusive mandate on competition or multiple mandates?	Multiple mandates	✓ Concurrent consumer protection mandate. See the Act, section 52(1), "[n]o person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect"; see also the Act. Section 52.1-55.1.
		X Concurrent IP mandate. The Act refers to other intellectual property statutes. See the Act, section 79(5), "[f]or the purpose of this section, an act engaged in pursuant only to the exercise of any right or enjoyment of any interest derived under the Copyright Act, Industrial Design Act, Integrated Circuit Topography Act, Patent Act, Trade-marks Act or any other Act of Parliament pertaining to intellectual or industrial property is not an anti-competitive act."
		Other mandates: The Bureau is charged with implementing other statutes: Consumer Packaging and Labeling Act; Textile Labeling Act; and Precious Metals Marking Act. There is also concurrent jurisdiction in the telecommunications sector.
PORTFOLIO INSTRUMENTS		
Law Enforcement		
Does the Competition Authority have powers to investigate cartels?	Yes	See generally the Act, section 45.
Does the Competition Authority have powers to conduct dawn raids at premises?	No	See generally the Act, section 15, "[t]he Commission, under an <i>ex parte</i> proceeding, must request a judge of a superior county court permission to execute a search. The standard is "reasonable grounds to believe" that [a violation has occurred]." However, the search powers may be executed without a warrant where "exigent circumstances" dictate. See the Act, section 15(d).
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	However, the Enforcement Guidelines on Abuse of Dominance Provisions provides that "[t]he Bureau has adopted the view that high market share is usually a necessary, but not sufficient, condition to establish market power."
Does the Competition Authority have powers to accept leniency applications?	Yes	From the Bureau's Leniency Programme's Bulletin: "Under the Leniency Program, the Bureau will recommend to the Public Prosecution Service of Canada ("PPSC") that qualifying applicants be granted recognition for timely and meaningful assistance to the Bureau's investigation and any subsequent prosecution. While leniency candidates are not eligible for a grant of immunity under the Bureau's Immunity Program, their early admission and cooperation respecting their role in a cartel offence can earn them a substantial basis for lenient treatment in sentencing."
Does the Competition Authority have powers to accept seek criminal punishment?	Yes	After amendments in 2009, several criminal offences were removed. The two remaining violations punishable by prison time are (i) bid-rigging (section 47(2)) and conspiracies (section 45).
Advocacy		
Can the Competition Authority issue opinions on draft legislation?	No	
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority	No	

when drafting legislation that may impact competition?			
Rulemaking			
Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	X	Guidelines on the calculation of fines. The Act sets forth limits and guidelines for fines. <i>See e.g.</i> the Act, section 79(3.2), “[i]n determining the amount of an administrative monetary penalty, the Tribunal shall take into account any evidence of the following.”
		✓	Guidelines on merger control. <i>See</i> Merger Enforcement Guidelines. The Bureau has indicated it will not consider a less than 10% acquisition of voting rights.
		✓	Guidelines on the economic analysis of abuse of dominance cases. Note that the Enforcement Guidelines on Abuse of Dominance Provisions does not contain any substantive economic analysis.
Research & Reporting			
Can the Competition Authority carry out market studies?	Yes		
Can the Competition Authority report to the legislature on the results of market studies?	No		
DECISION-MAKING FUNCTIONS			
Aggregated Functions			
Does the Competition Authority make the decision to investigate and to prosecute cases?	No		
Does the Competition Authority make guilty findings?	No		
Does the Competition Authority impose punishments?	No		
Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	No		
Can the Competition Authority’s decisions be appealed to a court?	No		
Disaggregated Functions—Prosecutorial Model			
Are there different authorities that make the decision to investigate and to prosecute cases?	Yes		
Are disputes presented for decision to a separate entity/tribunal?	Yes		