

| COLOMBIA | | |
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| COMPETITION FRAMEWORK | | |
| Competition Law | Law no. 155 of 1959 and the Decree 2153 of 1992 as amended by Law 1340 of 24 July 2009. | |
| Competition Authority | The Superintendence of Industry and Commerce—Superintendencia de Industria y Comercio. It was established by Decree 2974 of the 3 December 1968. The current structure of the competition authority was established in 1992. Website: http://www.sic.gov.co/es/ | |
| STATUS OF THE COMPETITION AUTHORITY | | |
| Accountability | | |
| Does the Competition Authority have obligations before the executive? | Yes | <p>X Obligations to report to the executive on on-going investigations upon request.</p> <p>X The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.</p> <p>√ The executive has to report on an annual basis to the executive.</p> |
| Does the Competition Authority have obligations before the legislature? | Yes | <p>√ Obligation to publish an annual report on its activities.</p> <p>√ Obligation to stand before parliament and to respond to congressmen on an annual basis. A vote of no confidence (Moción de Censura) may be promoted by the parliament.</p> <p>√ Its activities are monitored by an independent auditor or by oversight committees. Its activities are monitored by Procuraduría, Contraloría and Asuntos Internos.</p> |
| Does the Competition Authority have obligations before the judiciary? | Yes | <p>√ Decisions of the Competition Authority are subject to judicial review.</p> <p>Other obligations/comments: The Superintendence of Industry and Commerce is an administrative body, which has also jurisdictional faculties in certain cases. On the one hand, its administrative decisions regarding industrial property, consumer protection and competition law enforcement are subject to judicial review: <i>Tribunal Administrativo</i> and <i>Consejo de Estado</i>. On the other hand, in cases of unfair competition (affecting only private interests and not the market as a whole) and consumer protection, the Superintendence acts as a judge, having the legal power to decide private controversies involving such matters. These decisions are also subject to judicial review by higher judicial courts: <i>Tribunales Civiles</i> and the Supreme Court of Justice.</p> |
| 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? | No | |
| Does the executive retain decision-making powers over the Competition Authority? | Yes | The executive can remove the head at any time. |
| Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency? | Yes | |
| Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning? | Yes | Fiscal year budget for 2012: Approximately USD \$39,430,449. |
| Can the Competition Authority be financed by its own means (notification fees, fines, etc.)? | Yes | However, part of the budget comes from fines and fees. |
| 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? | No | He/she is appointed by the President. |
| Are the heads appointed by representatives of more than one government branch? | No | |
| Is there a fixed period during which removal is prohibited? | No | |
| Is the tenure of the heads renewable? | Yes | The Superintendent has no specific term since his or her appointment depends solely on the Colombian president's considerations. Consequently, a Superintendent may be removed from office before the end of the President's governmental term (four years), or may be confirmed as the head of the Superintendence by a newly elected president. |
| Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)? | Yes | Experience and a master's degree. |
| 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? | Part of a bigger entity | There are several authorities in the same location. However, most of it is occupied by the Agency. The Deputy Superintendence for Competition Protection, is one of the superintendence conforming the Superintendence of Industry and Commerce. |

| POLICY-MAKING AGENTS -DIVERSIFICATION- | | | |
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| How many agencies are responsible for competition enforcement? | One agency. | | |
| Do sector regulators have competition policy enforcement mandate? | The Aeronautical and Financial regulation agencies still have competition powers solely regarding mergers and acquisitions in those sectors. Television also has some competition policy enforcement. | | |
| Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators? | No, article 8 of the Decree amending Law 155 of 1959 of 2009 mandates for coordination between the competition authority and other authorities in the course of investigations. | | |
| POLICY DUTIES | | | |
| Does the Competition Authority have exclusive mandate on competition or multiple mandates? | Multiple mandates | √ | Concurrent consumer protection mandate. |
| | | √ | Concurrent IP mandate. |
| | | Other mandates: Habeas Data, Metrology, Ministry of Industry and Commerce. | |
| PORTFOLIO INSTRUMENTS | | | |
| Law Enforcement | | | |
| Does the Competition Authority have powers to investigate cartels? | Yes | Only administrative powers. | |
| Does the Competition Authority have powers to conduct dawn raids at premises? | Yes | | |
| Can the Competition Authority investigate <i>ex officio</i> cases? | Yes | | |
| Does the Competition Authority have powers to accept leniency applications? | Yes | <i>See</i> article 14 of Law no. 1340 of 2009. | |
| Does the Competition Authority have powers to accept seek criminal punishment? | No | The only anticompetitive conduct penalized by criminal law is bid rigging. In these cases, infringers are investigated by both the Superintendence of Industry and Commerce and a Public Prosecutor. | |
| Advocacy | | | |
| Can the Competition Authority issue opinions on draft legislation? | Yes | According to article 7 of Law no. 1340 of 2009, only on administrative regulations. The opinion of the Competition Authority is not binding, but the executive will have to justify the reasons why they did not follow the recommendation. | |
| Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition? | Yes | Only the executive. | |
| Rulemaking | | | |
| Can the Competition Authority issue guidelines or other type of secondary legislation? | Yes | X | Guidelines on the calculation of fines. |
| | | √ | Guidelines on merger control. |
| | | X | Guidelines on the economic analysis of abuse of dominance cases. |
| 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? | Yes | | |
| DECISION-MAKING FUNCTIONS | | | |
| Aggregated Functions | | | |
| Does the Competition Authority make the decision to investigate and to prosecute cases? | Yes | | |
| Does the Competition Authority make guilty findings? | Yes | | |
| Does the Competition Authority impose punishments? | Yes | | |
| 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? | Yes | | |

| Disaggregated Functions—Prosecutorial Model | | |
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| Are there different authorities that make the decision to investigate and to prosecute cases? | No | |
| Are disputes presented for decision to a separate entity/tribunal? | No | |