

PERU			
COMPETITION FRAMEWORK			
Competition Law	Legislative Decree no. 1034, introducing the Repression of Anticompetitive Conducts Act, was enacted on June 28, 2008.		
Competition Authority	Instituto Nacional de Defensa de la Competencia y la Propiedad Intelectual (“INDECOPI”) started functioning in March 1993. Website: www.indecopi.gob.pe		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	No	X	Obligations to report to the executive on on-going investigations upon request.
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.
		X	The Competition Authority has to report on an annual basis to the executive.
Does the Competition Authority have obligations before the legislature?	No	X	Obligation to publish an annual report on its activities.
		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.
		Other obligations/comments: The decisions of INDECOPI are subject to review by the judiciary, according to article 18 of Legislative Decree 1034.	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<i>See</i> Legislative Decree 1034, articles 4 and 6.	
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?	No		
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	No	Nevertheless, INDECOPI publishes all its decisions.	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes		
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes		
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Collegiate body	INDECOPI is governed by a Council of five directors that has a chairman, chosen by the President of the Republic among the directors appointed by the Presidency of the Ministers’ Council.	
Does a minister appoint the heads?	Yes	All directors are appointed by the executive branch.	
Do representatives of more than one government branch appoint the heads?	No		
Is there a fixed period during which removal is prohibited?	Yes	Five years.	
Is the tenure of the heads renewable?	Yes	Only once.	
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	It is a stand-alone agency, which is dependent of the Presidency of the Minister’s Council, but has administrative, financial and technical autonomy.	
POLICY-MAKING AGENTS -DIVERSIFICATION-			
How many agencies are responsible for competition enforcement?	One agency.		
Do sector regulators have competition policy enforcement mandate?	OSIPTEL (Telecommunications regulator)	Horizontal agreements, vertical restraint, and abuse of dominance on the telecommunications sector.	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	Telecommunications regulator	Yes	
	Energy regulator	Yes	

	Transport regulator	Yes	
	Other	Yes	
POLICY DUTIES			
The Competition Authority has exclusive mandate on competition or multiple mandates	Multi-functional agency	√	Concurrent consumer protection mandate.
		√	Concurrent IP mandate.
		Other mandates: INDECOPI enforces the following laws and matters: (i) the market access law, that bans Government rules that impose unauthorized and unwarranted barriers to entry; (ii) the advertising and unfair competition law, to protect firms from “dishonest” practices; (iii) a consumer protection law that governs not only unfair or deceptive practices, but almost all aspects of consumer activity; (iv) antidumping and safeguard; (v) voluntary and mandatory product standards and accreditation bodies; and (vi) market exit law, that provides a quasi-judicial procedure for handling bankruptcies.	
PORTFOLIO INSTRUMENTS			
Law Enforcement			
Does the Competition Authority have powers to investigate cartels?	Yes	See Legislative Decree 1034, article 15(3)	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	See Legislative Decree 1034, article 15(3)	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See Legislative Decree 1034, article 32.	
Does the Competition Authority have powers to accept leniency applications?	Yes	See Legislative Decree 1034, article 26.	
Does the Competition Authority have powers to seek criminal punishment?	No		
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	The opinions are not binding.	
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No		
Rulemaking			
Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	X	Guidelines on the calculation of fines.
		X	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	See Legislative Decree 1034, article 15(2)(g).	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	See Legislative Decree 1034, article 14(2)(e).	
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?	Yes		
Can the Competition Authority’s decisions be appealed to a court?	Yes		
Disaggregated Functions—Prosecutorial Model			
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		