

TAIWAN			
COMPETITION FRAMEWORK			
Competition Law	The Fair Trade Act (“FTA”) was enacted on February 4, 1991 and is effective since February 4, 1992. The Organic Act of the Fair Trade Commission (“OAFTC”), promulgated by Presidential Decree Hua-Zong-Yi-Yi-Tzu no. 10000252511 on November 14, 2011, is also applicable.		
Competition Authority	The Fair Trade Commission started functioning on January 27, 1992. Website: http://www.ftc.gov.tw/internet/english/index.aspx		
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.
		Other obligations/comments: <i>See</i> FTA, article 28.	
Does the Competition Authority have obligations before the legislature?	Yes	X	Obligation to publish an annual report on its activities.
		√	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.
		Other obligations/comments: The Competition Authority has the duty to present to the Legislative Yuan (parliament) a statement on its administrative policies and a report on its administration. During the review of the general budget proposal at each committee of the Legislative Yuan, the head of each and every government agency should be invited to give a report or a statement, to present their views and to provide related documents, shall not refuse or delay in executing.	
Does the Competition Authority have obligations before the Judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
		Other obligations/comments: The Administrative Litigation Act offers judicial remedies procedure to ensure the rights of the people. The NCA has obligations to be as a defendant before the courts.	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<i>See</i> OAFTC, article 4.	
Does the executive have powers to decide on specific cases based on public interest?	No	<i>See</i> FTA, article 28.	
Does the executive retain decision-making powers over the Competition Authority?	No	<i>See</i> FTA, article 28.	
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes	<i>See</i> OAFTC, article 12 and article 7 of the Freedom of Government Information Law.	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	Current fiscal year budget for 2012: Approximately NT\$356.593 million. <i>See</i> articles 2 and 55 of the Budget Act.	
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?	Collegiate body	There is also a collegiate body with 7 members, one of whom is the chairman. <i>See</i> OAFTC, article 4.	
Are the heads appointed by a minister?	Yes	The executive nominates each commissioner, and the parliament approves the nomination.	
Are the heads appointed by representatives of more than one government branch?	Yes	<i>See</i> OAFTC, article 4.	
Is there a fixed period during which removal is prohibited?	Yes	Four years.	
Is the tenure of the heads renewable?	Yes	A limit for renewal is not specified.	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	According to article 6 of the OAFTC, the commissioner appointees must have the knowledge and experience with regard to law, economics, finance and taxation, accounting, or management.	
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	12-14 F, no. 2-2 Jinan Rd., Sec. 1, Zhongzheng District, Taipei City 100, Taiwan (R.O.C.).	
POLICY MAKING AGENTS			

-DIVERSIFICATION-		
How many agencies are responsible for competition enforcement?	One agency.	
Do sector regulators have competition policy enforcement mandate?	National Communications Commission	It has competition over vertical restraint and abuse of dominance cases
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	No	
POLICY DUTIES		
Does the Competition Authority have exclusive mandate on competition or multiple mandates?	Exclusive competition mandate	X Concurrent consumer protection mandate.
		X Concurrent IP mandate.
		Other mandates: None.
PORTFOLIO INSTRUMENTS		
Law Enforcement		
Does the Competition Authority have powers to investigate cartels?	Yes	See FTA, articles 26 and 27.
Does the Competition Authority have powers to conduct dawn raids at premises?	No	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See FTA, articles 26 and 27.
Does the Competition Authority have powers to accept leniency applications?	Yes	See FTA, article 35(1).
Does the Competition Authority have powers to accept seek criminal punishment?	No	
Advocacy		
Can the Competition Authority issue opinions on draft legislation?	Yes	See FTA, article 25. 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.
		√ Guidelines on merger control.
		√ Guidelines on the economic analysis of abuse of dominance cases.
Research & Reporting		
Can the Competition Authority carry out market studies?	Yes	See FTA, article 25.
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?	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		
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	