

FRANCE			
COMPETITION FRAMEWORK			
Competition Law	Competition is regulated through the Code of Commerce. The Law no. 2008-776 (Loi de modernisation de l'économie), dated August 4, 2008, modified the Code of Commerce and created the "Autorité de la concurrence," establishing its responsibilities and the way the Antitrust system works today in France.		
Competition Authority	Autorité de la concurrence started functioning on March 1, 2009. Website: www.autoritedelaconcurrence.fr		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	Yes	X	Obligations to report to the executive on on-going investigations upon request.
		√	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.
		Other obligations/comments: The ministry in charge of the Economy can alter a Competition Authority's decision on mergers based on the public interest (different from the competition interest).	
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.
		√	Its activities are monitored by an independent auditor or by oversight committees.
		Other obligations/comments: The Competition Authority informs and responds to the parliament's inquires upon request, not annually. <i>See</i> Code of Commerce, article L461-5.	
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
		Other obligations/comments: The Competition Authority gives its opinion to the courts on competition issues.	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	The president has flexibility, but some criteria are established in Code of Commerce, article L461-1, section II.	
Does the executive have powers to decide on specific cases based on public interest?	Yes	The executive can decide local cases and some other cases with up to certain amounts established in Code of Commerce, article L464-9. Also, regarding mergers, they can intervene in case of public interest not related to competition issues.	
Does the executive retain decision-making powers over the Competition Authority?	Yes	Only on mergers.	
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	No	<i>See</i> Code of Commerce, article L464-2. It is a faculty not an obligation, except in the case of opposition to mergers, where the decision has to be public. <i>See</i> Code of Commerce, article R430-6.	
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 EUR 20.4 million.	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No	<i>See</i> Code of Commerce, article L464-4. The amounts collected as fines are considered as taxes.	
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	The Competition Authority has seventeen members, one of which is its president, chosen by the President of the Republic. <i>See</i> Code of Commerce, article L461-1.	
Are the heads appointed by a minister?	Yes	By the president. <i>See</i> Code of Commerce, article L461-1.	
Are the heads appointed by representatives of more than one government branch?	Yes	The Assembly and the Senate give advice, but the president decides.	
Is there a fixed period during which removal is prohibited?	Yes	Five years. <i>See</i> Code of Commerce, article articles L461-1 and L461-2.	
Is the tenure of the heads renewable?	Yes	<i>See</i> Code of Commerce, article L461-1, section III, renewable only once.	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	<i>See</i> Code of Commerce, article L461-1, section II. The Law indicates that the chairman is appointed based on his or her experience in Law and Economics, but no minimum amount of years is required.	
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	11 rue de l'Échelle, 75001 Paris.	

POLICY MAKING AGENTS -DIVERSIFICATION-		
How many agencies are responsible for competition enforcement?	Multiple agencies	See Code of Commerce, article L464-9.
What is the scope of the mandate on competition policy enforcement for each of the agencies?	Autorité de la Concurrence	Horizontal agreements, vertical restraint, abuse of dominance and merger control.
	Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes (“DGCCRF”)	Horizontal agreements, vertical restraint, abuse of dominance and merger control. The DGCCRF can investigate (giving previous notice to the Competition Authority), order to cease a conduct or order a specific transaction to the parties involved. Any disobedience of the DGCCRF’s decision becomes the Competition Authority’s competence.
Do sector regulators have competition policy enforcement mandate?	No	
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?	Exclusive competition mandate	X Concurrent consumer protection mandate.
		X Concurrent IP mandate.
		Other mandates: Non.
PORTFOLIO INSTRUMENTS		
Law Enforcement		
Does the Competition Authority have powers to investigate cartels?	Yes	See Code of Commerce, article L450-1.
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	See Code of Commerce, article L450-3.
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See Code of Commerce, article L450-1.
Does the Competition Authority have powers to accept leniency applications?	Yes	See Code of Commerce, article L464-2, section IV.
Does the Competition Authority have powers to accept seek criminal punishment?	Yes	See Code of Commerce, article L462-6. The Competition Authority can send the case to the general prosecutor.
Advocacy		
Can the Competition Authority issue opinions on draft legislation?	Yes	See Code of Commerce, article L462-1. 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?	Yes	See Code of Commerce, article L462-2. This is restricted to legislation that affects the exercise of a profession (quantitatively), exclusive rights or settlement of uniform prices.
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?	No	
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	Code of Commerce, Article L461-4. Investigation is carried out under the rapporteur’s office. Code of Commerce, Article L463-7. It can participate in the deliberation, but it cannot vote on the decision.
Can the Competition Authority’s decisions be appealed to a court?	Yes	
Disaggregated Functions—Prosecutorial Model		
Are there different authorities that make the	No	



decision to investigate and to prosecute cases?		
Are disputes presented for decision to a separate entity/tribunal?	No	