

GUERNSEY			
COMPETITION FRAMEWORK			
Competition Law	The Competition (Guernsey) Ordinance, enacted on July 25, 2012, entered into force on August 1, 2012.		
Competition Authority	The Guernsey Competition and Regulatory Authority (“GCRA”) started functioning on June 1, 2012. <b>Website:</b> <a href="http://www.cicra.gg/competition/index.aspx">http://www.cicra.gg/competition/index.aspx</a>		
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.
		<b>Other obligations/comments:</b> The Commerce and Employment Department (“C&E”) may, after consulting the GCRA, give the Authority written guidance on matters relating to corporate governance. Those matters include matters relating to the GCRA’s accountability, efficiency, and economy of operation, but not matters relating directly to the performance of the Authority’s functions.	
Does the Competition Authority have obligations before the legislature?	Yes	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.
		√	Its activities are monitored by an independent auditor or by oversight committees.
		<b>Other obligations/comments:</b> The GCRA has to submit annual accounts that are provided to the legislature by C&E. Under section 9(2) of the Competition (Guernsey) Ordinance, 2012 a report requested from NCA by C&E can be presented to the legislature.	
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
		<b>Other obligations/comments:</b> The Competition (Guernsey) Ordinance, 2012 section 46 provides that a party aggrieved by a decision of the GCRA may appeal to the Royal Court against the Decision.	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	The Guernsey Competition and Regulatory Authority Ordinance, Schedule 1 provides for the appointment, resignation and removal of the Chief executive of the GCRA and the Chairperson and Board Members of the GCRA.	
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?	Yes	The Competition (Guernsey) Ordinance, 2012 sections 17(2) and 45(1).	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	<b>Fiscal year budget for 2012:</b> Approximately GBP 300 K. According to the Competition (Guernsey) Ordinance, 2012 the States of Guernsey provide a grant to the GCRA but the amount of the grant is not guaranteed.	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No	Notification fees and fees for the issuance of guidance are self-funding but enforcement of the competition law is based on a grant from the executive. All fines are paid directly to the Treasury.	
GOVERNANCE OF THE COMPETITION AUTHORITY			
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?	Chairman		
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?	No		
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?	Yes	The chairman is proposed by C&E and appointed by the States.	
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?	Yes	Five years.	
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?	Yes	No limit for renewal is specified.	
Is the Competition Authority a stand-alone agency	No		

with an independent physical location or is it part of a bigger entity such as a minister?			
<b>ARCHITECTURE</b>			
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.		
<b>POLICY-MAKING AGENTS -DIVERSIFICATION-</b>			
How many agencies are responsible for competition enforcement?	One agency.		
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?	Telecommunications Regulator	No	
	Energy Regulator	No	
	Transport Regulator	No	
	Other	The GCRA is the sector regulator of telecoms, postal and electricity in Guernsey.  The GCRA has signed a Memorandum of Understanding with the NCA in Jersey, to assist collaborative working.  The GCRA also had a Service Level Agreement with C&E.	
<b>POLICY DUTIES</b>			
Does the Competition Authority have exclusive mandate on competition or multiple mandates?	Multiple mandates	X	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		<b>Other mandates:</b> The GCRA is the sector regulator of telecommunications, postal and electricity in Guernsey.	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>Law Enforcement</b>			
Does the Competition Authority have powers to investigate cartels?	Yes	See the Competition (Guernsey) Ordinance, 2012 sections 5 and 22(a)(i).	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	See the Competition (Guernsey) Ordinance, 2012 sections 24 and 25.	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See the Competition (Guernsey) Ordinance, 2012 sections 1 and 22(a)(i).	
Does the Competition Authority have powers to accept leniency applications?	Yes	See <a href="http://www.cicra.gg/competition/legal_framework.aspx">http://www.cicra.gg/competition/legal_framework.aspx</a>	
Does the Competition Authority have powers to accept seek criminal punishment?	No	The Competition (Guernsey) Ordinance, 2012 sections 48-51 creates certain offences for example, in the provision of false or misleading information, withholding information or falsifying documents. Infringement of the merger and acquisition, anti-competitive and abuse of dominance provisions of The Competition (Guernsey) Ordinance, 2012 are not a criminal offence.	
<b>Advocacy</b>			
Can the Competition Authority issue opinions on draft legislation?	Yes	The Competition (Guernsey) Ordinance, 2012 section 52 provides that the GCRA may advise the C&E on the effect of any legislation or proposed legislation or any other legal development on competition in Guernsey and more generally in respect of competition matters. 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		
<b>Rulemaking</b>			
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.
<b>Research &amp; Reporting</b>			
Can the Competition Authority carry out market studies?	Yes		
Can the Competition Authority report to the legislature on the results of market studies?	Yes		
<b>DECISION-MAKING FUNCTIONS</b>			
<b>Aggregated Functions</b>			
Does the Competition Authority make the	Yes		

decision to investigate and to prosecute cases?		
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	NCA's staff conducts investigations and the Board of the NCA is responsible for making decisions.
Can the Competition Authority's decisions be appealed to a court?	Yes	
<b>Disaggregated Functions—Prosecutorial Model</b>		
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	