

HUNGARY		
COMPETITION FRAMEWORK		
Competition Law	The Act LVII of 1996, Hungarian Competition Law, ("HCL") was enacted on June 25, 1996.	
Competition Authority	Hungarian Competition Authority, Gazdasági Versenyhivatal, ("GVH") started functioning on January 1, 1991. Website: http://www.gvh.hu	
STATUS OF THE COMPETITION AUTHORITY		
Accountability		
Does the Competition Authority have obligations before the executive?	No	<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>X The Competition Authority 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.</p> <p>√ Its activities are monitored by an independent auditor or by oversight committees.</p> <p>Other obligations/comments: See HCL, section 36(2). It also has the obligation to give advice in any matter related to competition.</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: In civil lawsuits, the GVH, as amicus curiae, may submit its (written or oral) observations on issues relating to the application of the unfair-manipulation-of-consumer-choice, restrictive-agreements and abuse-of-dominance provisions of the Competition Act and of Articles 101 and 102 of the TFEU.</p>
Independence		
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	
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	See HCL, section 80.
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	See HCL, section 33. Fiscal year budget for 2012: Approximately EUR 7.6 million.
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	See HCL, section 43/A. But only the notification fee is the NCA's own income.
GOVERNANCE OF THE COMPETITION AUTHORITY		
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	See HCL, section 35(1).
Are the heads appointed by a minister?	Yes	See HCL, section 35(2). He is nominated by the prime minister and appointed by the president of the Republic.
Are the heads appointed by representatives of more than one government branch?	No	See HCL, section 35(2)(3)
Is there a fixed period during which removal is prohibited?	No	See HCL, section 35(4). Appointment is for six years, but the president can remove him as per the prime minister proposal if certain conditions are met.
Is the tenure of the heads renewable?	Yes	See HCL, section 35(2). No limit.
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	H-1054 Budapest, Alkotmány u. 5.
POLICY-MAKING AGENTS -DIVERSIFICATION-		
How many agencies are responsible for competition enforcement?	One agency.	
Do sector regulators have competition policy	The National Media and Info-	Merger Control: it has to give its consent in case of media mergers.

enforcement mandate?	communications Authority Hungary (“NMIA”)	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	Telecommunications regulator	Yes
	Energy regulator	Yes
	Transport regulator	Yes
	Other	With the General Inspectorate for Consumer Protection, the Ministry of National Development, the Hungarian Energy Office, the National Transport Authority, National Media and Information-communications Authority Hungary (“NMIA”) and the Hungarian Financial Supervisory Authority (“HFSA”).

POLICY DUTIES

Does the Competition Authority have exclusive mandate on competition or multiple mandates?	Multiple mandates	√	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		Other mandates: The GVH has mandates related to other statutes: the Act CLXIV of 2005 on the Act on Trade, the Act XLVIII of 2008 on the Act Business Advertising Activity, the Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (GVH is only entitled to initiate proceedings if the unfair commercial practices affect competition on the merits), the Chapter III of the HCL (the infringements that are listed in this chapter are the following: (i) misleading of trading parties, (ii) restricting the trading parties’ freedom to take a transactional decision).	

PORTFOLIO INSTRUMENTS

Law Enforcement

Does the Competition Authority have powers to investigate cartels?	Yes	See HCL, sections 70(1) and 11.	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	See HCL, section 65A.	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See HCL, section 70(1) and 21.	
Does the Competition Authority have powers to accept leniency applications?	Yes	See HCL, section 78A.	
Does the Competition Authority have powers to accept seek criminal punishment?	No	Criminal punishments are applied in antitrust cases regarding public procurement- and concessional cartels. In these procedures, the investigative authorities (Prosecutor’s Office, Police) shall carry out the investigation, and the criminal court is the decision-making judicial entity. The GVH has the duty to make a report to the Prosecutor’s Office in case of receiving relevant information.	

Advocacy

Can the Competition Authority issue opinions on draft legislation?	Yes	See HCL, section 36(3). 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 HCL, section 36(3).	

Rulemaking

Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	√	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	See HCL, section 43C.	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	See HCL, section 43E.	

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	There is a distinctive separation of procedures related to investigation and decision-making in antitrust cases (abuse, cartel). The first part is the investigative part when the case handlers complete a report containing all the relevant information collected by them. The separate part is the decision-making part when the Competition Council issues the resolutions on the substance of the cases and on the enforcement of the resolutions of the GVH. The Competition Council is a fully independent	

		body and bound by law only. Still, the strong separation of investigation and decision-making is bypassed in the following cases: the Competition Council assesses the legal remedies submitted against the injunctions made by the investigator in the course of the proceedings; as merger control differs from classical antitrust investigation procedures, to some extent, there is professional informal cooperation between the Competition Council and the case handlers of the investigative phase; in certain cases connected to clarification of facts as provided by law, the Competition Council also has investigative powers and it may impose investigative fines.
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	