

ITALY			
COMPETITION FRAMEWORK			
Competition Law	The Competition and Fair Trading Act, Law no. 287 (“Competition Act”) was enacted on October 10, 1990.		
Competition Authority	Autorità Garante della e del Mercato (Italian Competition Authority – “ICA”) was established as of October 11, 1990 (when the law came into force). Website: http://www.agcm.it		
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.
		X	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.
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.
		X	Its activities are monitored by an independent auditor or by oversight committees.
		Other obligations/comments: The Authority’s financial statements have to be approved by April 30 of the following year, and are subject to auditing by the Court of Auditors.	
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	See section 10 of the Competition Act.	
Does the executive have powers to decide on specific cases based on public interest?	No	See section 25 of the Competition Act provides the Government with the power to lay down general criteria that the Authority would be bound to apply in order to authorize an otherwise prohibited merger. In any case, to date, section 25 has not been implemented.	
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 section 26 of the Competition Act.	
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 57.7 million. See section 10 of the Competition Act. The ICA is financed by annual allocations through a special chapter of the Ministry of Economic Development’s budget.	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	See section 10 of the Competition Act.	
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	The ICA is composed of three members including the president. Note that originally there were five members but in December 2011 the number of members was reduced.	
Does a minister appoint the heads?	No	The members of the ICA are appointed jointly by the presidents of the Italian Chamber of Deputies and Senate.	
Do representatives of more than one government branch appoint the heads?	No		
Is there a fixed period during which removal is prohibited?	Yes	Seven years.	
Is the tenure of the heads renewable?	No		
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	According to section 10 of the Competition Act, the prerequisites for the chairman include a reputation for independence and service in other high-level institutional positions. The Members must also manifest the values of independence and are selected from among the magistrates of the State Council, the Court of Auditors and the Court of Appeals, full university professors of economics or jurisprudence and outstanding personalities from the economic sector with impeccable reputations of professionalism.	
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	Piazza Verdi No. 6/A, Rome.	
POLICY-MAKING AGENTS			

-DIVERSIFICATION-			
How many agencies are responsible for competition enforcement?	One agency.		
Do sector regulators have competition policy enforcement mandate?	Italian Energy Authority (“Autorità dell’energia elettrica e il gas”)	The ICA, before deciding on agreements, abuses, concentrations cases, needs to ask sector regulators a non-binding opinion on the matter concerned.	
	Italian Communications Authority (“Autorità per le garanzie nelle comunicazioni,” or “AGCOM”)	The ICA, before deciding on agreements, abuses, concentrations cases, needs to ask sector regulators a non-binding opinion on the matter concerned.	
	Insurance Authority (“Istituto per la Vigilanza nella Assicurazioni Private e d’Interesse Collettivo,” or “ISVAP”)	The ICA, before deciding on agreements, abuses, concentrations cases, needs to ask sector regulators a non-binding opinion on the matter concerned.	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	Telecommunications regulator	Yes	
	Energy regulator	No, but the ICA is currently finalizing a protocol with it.	
	Transport regulator	No	
	Other	With the Bank of Italy.	
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 ICA is responsible to deal with conflicts of interest related matters.	
PORTFOLIO INSTRUMENTS			
Law Enforcement			
Does the Competition Authority have powers to investigate cartels?	Yes		
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	Searches and seizures ordered by the ICA may be carried out through an investigative body (the Guardia di Finanza), and do not need to be authorized by a judge or magistrate.	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<i>See</i> section 12 of the Competition Act.	
Does the Competition Authority have powers to accept leniency applications?	Yes	<i>See</i> section 15 (2)bis of the Competition Act.	
Does the Competition Authority have powers to seek criminal punishment?	No		
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	<i>See</i> section 21 of the Competition Act. The opinions are not binding. However, under Section 21bis of the Competition Act, the ICA has been given powers over administrative provisions creating distortions to competition. Namely, comma 2 of the above-mentioned section states: “[s]hould the Authority determine a provision issued by a public administration to infringe on the laws protecting competition and the market, a reasoned opinion indicating the specific nature of said infringement shall be issued within sixty days. Should the public administration fail to comply with the opinion within sixty days of notification, the Authority may lodge an appeal through the Avvocatura dello Stato within the following thirty days.”	
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No	<i>See</i> section 22 of the Competition Act.	
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	<i>See</i> section 12(2) of the Competition Act.	
Can the Competition Authority report to the legislature on the results of market studies?	Yes		
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	