

SPAIN			
COMPETITION FRAMEWORK			
Competition Law	The Competition Act no. 15/2007 was enacted on July 3, 2007.		
Competition Authority	The National Competition Commission, Comisión Nacional de Competencia, ("CNC"), started functioning on September 1, 2007. Website: http://www.cncompetencia.es/		
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 executive can veto phase II mergers if they raise national interest concerns (other than competition). See Competition Act, article 60.	
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.
		√	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 Economic and Competitiveness Committee of Congress monitor the activities.	
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
		Other obligations/comments: Pursuant to the Competition Act, article 25(c), the CNC shall issue an opinion on criteria for the quantification of compensations for competition infringements under the Act, when they are required to do so by the competent judicial body.	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	See Competition Act, articles 29 and 30.	
Does the executive have powers to decide on specific cases based on public interest?	Yes	See Competition Act, articles 14 and 60. The executive has a final saying on merger reviews if national interest matters (other than competition) concerns a particular transaction.	
Does the executive retain decision-making powers over the Competition Authority?	Yes		
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes	See Competition Act, article 27.	
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 12 million. See Competition Act, article 22(2).	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	See Competition Act, article 22(1).	
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	See Competition Act, article 20.	
Does a minister appoint the heads?	Yes	See Competition Act, article 29(1).	
Do representatives of more than one government branch appoint the heads?	No		
Is there a fixed period during which removal is prohibited?	Yes	Pursuant to the Competition Act, article 29(3), six years.	
Is the tenure of the heads renewable?	No	See Competition Act, article 29(3).	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	See Competition Act, article 29(1). The chairman is a reputed economist, jurist, etc.	
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	C/ Barquillo, 5 - 28004 Madrid (Spain)	
POLICY-MAKING AGENTS			

-DIVERSIFICATION-			
How many agencies are responsible for competition enforcement?	Multiple agencies	Existing Regional Competition authorities (presently 11) are in some cases responsible for the antitrust enforcement at a regional level as established by Law no. 1/2002.	
Do sector regulators have competition policy enforcement mandate?	Regional Competition Authorities	Regional competition authorities have the mandate over horizontal agreements, vertical restraint, abuse of dominance cases, as well as to carry out market studies. They do not have merger control powers.	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	Telecommunications regulator	Yes	
	Energy regulator	No	
	Transport regulator	No	
	Other	None	
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	<i>See</i> Competition Act, article 49.	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	<i>See</i> Competition Act, article 40.	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<i>See</i> Competition Act, article 49.	
Does the Competition Authority have powers to accept leniency applications?	Yes	<i>See</i> Final provision no. 2 of the Competition Act and Royal Decree 261/2008.	
Does the Competition Authority have powers to seek criminal punishment?	No	However, there are certain infringements in the current Criminal Code that could also be considered actions against the Competition Act. Particularly, there are three articles: (i) article 262 describes the offense of bid rigging; (ii) article 281 describes the offense of manipulating prices of raw materials or essential goods; and (iii) article 284 describes the offense of altering prices.	
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	<i>See</i> Competition Act, 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?	Yes	<i>See</i> Competition Act, article 25.	
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	<i>See</i> Competition Act, article 26.	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	<i>See</i> Competition Act, article 28(3).	
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	<i>See</i> Competition Act, articles 34 and 35. The Directorate for Investigations carries out the investigations and the Council decides the cases on the proposal of the Directorate for Investigations.	
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	No		

entity/tribunal?		
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