

## UKRAINE

### COMPETITION FRAMEWORK

Competition Law	There are three legislative acts in Ukraine that constitute the basis for the antimonopoly legislation of Ukraine: 1. Law of Ukraine “On economic competition protection” (Jan. 11, 2001) - 2. On 7 June 1996, the Law of Ukraine On Protection Against Unfair Competition No. 236/96-BP (hereinafter referred to as “Law No. 236”) 3. Law of Ukraine “On the Antimonopoly Committee of Ukraine”
Competition Authority	The Antimonopoly Committee of Ukraine (AMC), enacted 26 November 1993 <a href="http://amc.gov.ua/amc/control/en/publish/article?art_id=44798">http://amc.gov.ua/amc/control/en/publish/article?art_id=44798</a> (in English)

### STATUS OF THE COMPETITION AUTHORITY

<b>Accountability</b>			
The Competition Authority has 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 be vetoed by the Ministry or the Executive branch
		✓	The Competition Authority has to report on an annual basis to the Executive.
The Competition Authority has obligations before the legislature	Yes	✓	Obligation to publish an annual report on its activities.
		✓	Obligation to stand before Parliament and respond to congressmen on an annual basis.
		✓	Congressional oversight committees are empowered to question agency employees about certain agency decisions
The Competition Authority has obligations before the Judiciary	Yes	✓	Decisions from the Competition Authority are subject to review by the judiciary or other non-political entity.
<b>Independence</b>			
The criteria for appointment and removal of the	Yes		See Law on ACU Ch. 2 "Structure, Competence, and Organization of Activities of the Antimonopoly

Head/Board Members is clear and transparent		Committee of Ukraine"
The executive has powers to decide on specific cases based on public interest	No	
The executive retains decision making powers over the Competition Authority	No	But see Law on the Antimonopoly Committee of Ukraine, Ch. 1, Art. 2 "Subordination and Accountability of the Antimonopoly Committee of Ukraine" - The Antimonopoly Committee of Ukraine shall be subordinate to the President of Ukraine and accountable to the Supreme Rada (Parliament) of Ukraine.
The Competition Authority is obliged to publish its reasons decisions to ensure transparency	Yes	See Ch. IV, Article 24
There is a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning	Yes	See Ch. V, Art. 28
The Competition authority can be financed by its own means (notification fees, fines,...)	Yes	See Ch. V, Art. 28
<b>GOVERNANCE OF THE COMPETITION AUTHORITY</b>		
The Competition Authority is governed by a single chairman or a collegiate body	Collegiate Body	See Law on the Antimonopoly Committee of Ukraine, Ch. II, Art. 6
The heads are appointed by a minister	No	See Law on the Antimonopoly Committee of Ukraine, Ch. II, Art. 11
The heads are appointed by representatives of more than one government branch	No	
There is a fixed period during which removal is prohibited	No	
The tenure of the heads is renewable	No	
The heads are required to have certain minimum qualifications (degree in law or economics, age, experience)	Yes	See Law on the Antimonopoly Committee of Ukraine, Ch. II, Art. 11
<b>ARCHITECTURE</b>		

The Competition Authority is a stand-alone agency with an independent physical location or it is part of a bigger entity such as a Minister	Stand-alone agency	See Law on the Antimonopoly Committee of Ukraine, Ch. II, Art. 6	
<b>POLICY MAKING AGENTS-DIVERSIFICATION</b>			
There is only one agency or more than one agency responsible for competition enforcement	One agency		
Sector regulators have competition policy enforcement mandate	Not applicable		
The Competition Authority and other agencies have signed protocols or memoranda of understanding (MoU)	No		
<b>POLICY DUTIES</b>			
The Competition Authority has exclusive mandate on competition or multiple mandates	Exclusive Mandate	X	Concurrent Consumer Protection mandate.
		X	Concurrent IP mandate.
		<b>Other Concurrent Jurisdiction: None</b>	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>LAW ENFORCEMENT</b>			
The Competition Authority has powers to investigate cartels	Yes	The Competition Law does not define or use the term 'cartel', but the rules applicable to cartels are set forth in articles 5 to 11	
The Competition Authority has powers to dawn raid premises	No		
The Competition Authority investigates ex officio cases	Yes	See Law on the Antimonopoly Committee of Ukraine, Ch. 1, Art. 3	
The Competition Authority has powers to accept leniency applications	Yes	See part II, clause 6, paragraph 5 of the Competition Law.	
The Competition Authority	Yes		

has powers to seek criminal punishment		
<b>ADVOCACY</b>		
The Competition Authority can issue opinions on draft legislation	Yes	See Law on the Antimonopoly Committee of Ukraine, Ch. II, Art. 7
The executive and/or the legislature is obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition	No	
<b>RULEMAKING</b>		
The Competition Authority can issue guidelines or other type of secondary legislation	Yes	X
		✓
		✓
<b>RESEARCH &amp; REPORTING</b>		
The Competition Authority can carry out market studies	Yes	See Law on the Antimonopoly Committee of Ukraine, Ch. II, Art. 7
The Competition Authority can report to the legislature on the results of market studies	Yes	
<b>DECISION MAKING FUNCTIONS</b>		
The body that carries out investigations and decides the cases are the same	Yes	See Ch. IV, Article 24
The body that carries out investigations and imposes fines are the same	Yes	See Law on ACU, Article 8
The investigatory body has standing before the decisional body that makes the decisions	No	