	Colombia
	[Please introduce here the name of
	your country]
	COMPETITION FRAMEWORK
Competition Law	Law no. 155 of 1959 and Decree 2153 of 1992 as amended by Law 1340 of 24 July 2009 and by Law 2195 of 18 January 2022. Article 410 of Law 599 of 2000 (Criminal Code)
	[Please introduce here the current laws which are part of the competition framework in your jurisdiction. Mention the year in which those laws were issued and their amendments if apply]
Competition Authority	 The Superintendence of Industry and Commerce—Superintendencia de Industria y Comercio. Established by Decree 2974 of 3 December 1968. The current structure of the competition authority was established by Decree 14886 of 2011, amended by Decree 092 of 2022. Website: https://www.sic.gov.co Fiscalía General de la Nación: Established by Article 249 of the Colombian Constitution in 1991. This is an autonomous entity that carries out the prosecution of Criminal Code infringements. However, the powers of this authority on competition matters started only until 2011, when bid rigging on public procurement procedures was introduced as a felony in the Colombian Criminal Code (Article 410 A Law 599 of 2000 amended by Law 1474 of 2011) Website: https://www.fiscalia.gov.co [Please introduce here the name of the competition authorities that are part of the enforcement process of the laws mentioned in the previous question. In that regard, please specify the norms that established those agencies, the year in which they started operation, and their website. Include tribunals only if they have a role in the process of founding guilt imposing sanctions. This point specifically excludes judicial authorities that only have judicial review powers]

POLICY-MAKING AGENTS

-DIVERSIFICATION-

How many agencies are responsible for competition enforcement?

Colombia has the following two authorities with a general mandate to enforce competition law infringements:

- Superintendency of Industry and Commerce (SIC): Enforces competition law throughout all the Colombian markets (article 6, Law 1340 of 2009). It is an administrative authority tasked with the investigation, prosecution, and sanction of competition law breaches (agreements and unilateral conduct) (Articles 47,48,50, Decree 2153 of 1992) as well as ex-ante merger control (Title II of law 1340 of 2009). It can impose fines on moral and natural persons (Articles 25 and 26 Law 1340 of 2009), and structural relief (article 13, Law 1340 of 2009). SIC is also charged with competition advocacy powers (article 7, Law 1340 of 2009).
- 2. Fiscalía General de la Nación: It is an autonomous and independent authority created by the Colombian Constitution and vested with the powers to initiate criminal action before the criminal courts. Regarding competition matters, the Fiscalia is charged with investigating and causing potential competition law offenders, before the criminal courts, on the grounds of bid rigging in public tender procedures, which is the only competition breach that is considered a felony by the Colombian Criminal Law (Article 410 A, Law 599 of 2000).

Note: both agencies can investigate and prosecute the same case; in that scenario, SIC will impose administrative sanctions, while the Fiscalia will pursue that the courts impose criminal liability on the investigated parties.

[Please mention how many authorities have a general mandate to enforce competition in your jurisdiction. Include a brief reference on their duties e.g.: if they impose criminal, civil, or administrative liability. The purpose is that readers can quickly understand, which are the agencies charged with competition enforcement in the jurisdiction, the difference between them, and if they have concurrent, overlapping or exclusionary

	authority. Include the relevant provisions on which their powers are based. Exclude in this point sector regulators or enforcers]
Do sector regulators have a competition policy enforcement mandate?	The Aeronautical (Aeronautica Civil) and Financial regulation (Fianance Superintendency) agencies have competition powers solely regarding exante merger control in those sectors. [Please introduce the agencies that have powers to enforce any aspect of competition law, including merger control, in specific sectors. Introduce the relevant provisions on which their powers are based]
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	Article 8 of the Decree amending Law 155 of 1959 of 2009 mandates for coordination between the competition authority and other authorities in the course of investigations. [Please mention here any provision or interinstitutional agreement that allows the competition authorities to coordinate behavior to effectively enforce competition law]
	REGATED FUNCTIONS— SECUTORIAL MODEL
Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?	No Note: SIC, is the major enforcer of competition law in Colombia, it is not involved in a prosecutorial model. Nonetheless, the Fiscalia is, therefore in criminal cases regarding bid rigging in public tender procedure, the Fiscalia will accuse the possible offenders before the criminal courts. [If the answer is yes, please explain the enforcement process briefly, and include the relevant provisions. The purpose of this question is to understand the enforcement model of the jurisdiction and establish, how many independent authorities are involved in the enforcement process and what their functions are]
Are disputes presented for decision to judiciary authorities?	Note: in the same line as the previous answer, only the criminal cases regarding bid rigging in public tender procedures are presented before the Criminal Courts. Municipal judges, circuit judges, Tribunals, and the Supreme Court. [If the answer to your question is yes, please introduce the name of the judiciary authorities that are involved and their role until the final decision in the process is achieved; exclude from this question judiciary authorities whose role in the process is the judicial review of administrative decisions]
Do private rights of action to challenge competition law infringements exist in your jurisdiction	Yes In Colombia, it is possible that consumer and private parties can pursue damages through a class action called "Acción de Grupo" or through another action that is called "Acción Popular", which aims to protect collective rights and interests; according to Article 4, (i), of Law 472 of 1998 free economic competition is one of rights and interests. 1. Acción Popular: Regulated by Title II of Law 472 of 1998. Any moral and natural person is entitled to file this action, including NGOs and Consumer associations; public entities and public officers such as mayors can also start this kind of process (Article 12, law 472 of 1998). The "acción popular process" is a two-stage procedure with priority over most other processes, given that it is considered a constitutional action.; therefore, the terms given to the parties and the court to act within it are shorter than in the regular civil procedure. The claimants are allowed to request precautionary

breaching conduct.
2. Acción de Grupo
Regulated by Title III of Law 72 of 1998. This class action can
be filed for any group of people affected by a particular conduct.
It is a two-stage process. The group must have at least 20
members. It is also considered a constitutional action, thus as in
the case of the "acción popular", its process has priority over most
other procedures, and the terms are shorter than regular civil
procedure. The claimants are allowed to request precautionary

conduct.

Finally, it is important to mention that these actions have only been used in a few antitrust cases, and the results have not been favorable to the claimants. Therefore even though the private rights of action exist in Colombia they have not been an effective tool in competition matters.

measures, they can pursue damages, and cease of the breaching

[If the answer is "yes", please explain the process briefly and who are the persons entitled to exercise those rights; mention the relevant provisions]

* Please fill the next sections for each of the authorities mentioned in the prior sections excluding sector regulators SIC

SUPERINTENDENCE OF INDUSTRY AND COMMERCE (SIC)

STATUS OF THE COMPETITION AUTHORITY

	THI COULT THE COME			
Accountability	Please, answer "Yes" in the boxes of this line if any of the duties on the right column apply to the authority, and "No" if they do not.		with X /√ as it applies	Please, in the boxes of this line mention the relevant provisions in which the obligations are based.
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. m	
		√	The authority has to report on an annual basis to the executive.	Article 3 (3), Decree 4886 of 2011.
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.	Title IV Chapter I, Law 1757 of 2015.
		√	Obligation to stand before parliament and to respond to congressmen on an annual basis.	Article 135 Colombian Constitution
		V	Its activities are monitored by an independent auditor or by oversight committees.	Its activities are monitored by an independent auditor or by oversight committees. Its activities are monitored by Procuraduría (Article 277(1), Colombian Constitution), Contraloría (Article 267, Colombian
				Constitution) and Asuntos Internos (which is a division inside the agency) (Article 4, Decree 4886 of 2011).

Does the Competition Authority have obligations	Yes	√	Decisions of the Competition Authority are subject to judicial review.	The Superintendence
before the judiciary or independent agencies?			subject to judicial review.	of Industry and Commerce is an administrative body, with jurisdictional faculties in certain cases. On the one hand, its administrative decisions regarding industrial property, consumer protection and competition law enforcement are subject to judicial review: Tribunal Administrativo and Consejo de Estado (Article 138, Law 1437 of 2011). [Aside from the relevant provisions please mention the judicial authority charged with the review]
		√ ·	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?	The actions and measures taken by the authority can be reviewed by the Procuraduría General de la Nación who is responsible for surveillance and control of public offices (Article 277(1), Colombian Constitution). [Aside from the relevant
			obligations/comments: Please introduce any	provisions, please mention the authority charged with the review]
		comme	ent that you consider relevant.	
Independence	Please, answer "Yes" or "No			
Are the criteria for appointment and removal of the head/board members clear and transparent?	No	has to Comm or Ph. profess First, t include adminis	1, Decree 1817 of 2015 establishes two requires comply with to be elected as Superintend erce: i) an undergraduate degree and a postgrad D.) on subjects related to the office; ii) 1 tional experience on matters relating to the job hese requirements are too broad, and as fees a wide range of disciplines such as admisstration, and others. Therefore, the appointed erts on competition law.	ent of Industry and uate degree (magister, 0 years or more of . or valid experience it nistrative law, public
		decrees	I, since the Superintendent is elected by the s, including Decree 1817 are also enacted by ant disagrees with the abovementioned requirer	the president .If the

	<u> </u>	issue a new Decree with new criteria.	
		[Please introduce the relevant provisions, and if the answer to this question is "no", explain briefly why in your opinion the criteria are not clear or transparent]	
Does the executive have powers to decide on specific cases based on public interest?	No	[Please introduce the relevant provisions, and if the answer to the question is "yes", explain in which cases the executive can decide on public interest bases]	
Does the executive retain decision-making powers over the Competition Authority?	No	[Note: it is important to consider that the president can remove the Superintendent at any time and for any reason]	
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes	Articles 3 and 48, Law 1437 of 2011. [Please introduce the relevant provisions]	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	The resources of the agency are established each year through the National Budget Law: Approximately USD \$58,983,984. [Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved]	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	Merger fees created by Article 152, Law 2010 of 2019. Part of the budget comes from fines and fees (Article 25, Law 1340 of 2009) [Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]	
	GOVERNANCE OF T		
Is the Competition Authority governed by a single chairman or by a collegiate body?	_	the directive organ of the authority is composed of one person. Answer "collegiate body" if the mposed of two or more members, regardless if this organ is directed or presided by a chairman	
How are the members of the Authority's directive organ chosen?	The Superintendent is elected and removed by the President Article 189, Colombian Constitution [Please describe the electing process for choosing the members of the directive organ. Include relevant provisions; mention the branch government involved in this process]		
Is there a fixed period during which removal is prohibited?	No	According to article 2.2.34.1.4. of Decree 1817 the Superintendent is elected for the same tenure of the President (4 years); in addition Article 2.2.34.1.5 of the same Decree provides that if the Superintendent is removed before his tenure, the president has to motivate his decision. Nevertheless, it is important to consider that the president can modify these provisions at will. [If your answer is "yes", please introduce the duration of the tenure and the relevant provisions. If the answer is no, please refer if there are specific and restricted grounds under which the members of the Directive body can be removed; mention if they are elected for a term and introduce the relevant provisions]	
Is the tenure of the heads renewable?	Yes	There is no limitation in the law preventing the President from renewing the term of the Superintendent.	
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	[Please, introduce the relevant provisions] As mentioned in a previous answer, Article 1, Decree 1817 of 2015 provides two requirements that a candidate has to comply with to be elected as Superintendent of Industry and Commerce: i) an undergraduate degree and a postgraduate degree (magister, or Ph.D.) on subjects related to the office; ii) 10 years or more of professional experience on matters relating to the job.	

		considered as valid experience, such as administrative law, public administration, and others. Therefore, the appointees on a few occasions are experts on competition law. Second, the Superintendent is elected by the President, and the decrees, including Decree 1817 are also enacted by the president. Thus, if the president disagrees with the abovementioned requirements, he just needs to issue a new decree with new criteria. [If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions]
Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a ministry?	Stand-alone	[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized]
	Police	Y DUTIES
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Multiple mandates	 ✓ Concurrent consumer protection mandate. ✓ Concurrent IP mandate. Other mandates: Data protection, Metrology, Unfair competition
	Portfolio	Instruments
Law Enforcement		
Does the Competition Authority have powers to investigate cartels?	Yes	SIC can impose administrative sanctions (Articles 25 and 26, Law 1340 of 2009), and it has a broad authority to investigate any type of agreement that can restrain competition in the Colombian market (Article 1, Law 155 of 1959 and Article 47, Decree 2153 of 1992). [If the answer is "yes", please mention the type of liability that the actions of the agency seek: civil, criminal, administrative. Introduce the relevant provisions; briefly explain if the powers of the authority are limited to certain types of cartels and what kind of sanctions can be imposed]
Does the Competition Authority have powers to investigate unilateral Conduct?	Yes	SIC has the power to investigate any unilateral conduct that can restrain competition in the Colombian market, exploitative or exclusionary, even if the investigated party does not hold a dominant position over the marker (Article 1, Law 155 of 1959, Articles 48 and 50, Decree 2153 of 1992). [If the answer is "yes", please mention briefly if the competition authority is invested with the power to pursue exploitative and exclusionary effects, also make reference to relevant provisions, the type of liability that the actions of the authority seek, and what kind of sanctions can be imposed]
Does the Competition Authority have the powers to conduct ex-ante merger review?	Yes	The ex-ante merger reviewed is regulated in Title II of Law 1340 of 2009, and Resolution 2751 of 2021 issued by SIC. According to Article 10, of Law 1340 of 2009, the procedure is the following: Interested parties ought to file a request to the Authority which includes a report of the transaction that must meet the requirements established by SIC under Resolution 2751 of 2021; Three business days after the parties filed the request SIC shall publish the transaction in a national journal. Ten business days following the publication, any interested person can send the Superintendence information considered relevant in the analysis of the transaction; SIC has 30 business days after the filing of the request to approve the transaction or order a second stage procedure; If the request is moved to the second stage, SIC must notify the relevant sector regulators so they can contribute with a non-binding opinion of the

		transaction;
		SIC must issue its final decision, during the 3 months following the filing of the request which complies with the requirements. The final decision can: i) block the transaction, ii) approve it, or iii) approve it with conditions (behavioral or structural remedies)(Article 11, Law 1340 of 2009).
		[If the answer is "yes", please explain briefly the process and which are the remedies that authority can seek or impose and mention the relevant provisions]
Is the notification of merger transactions mandatory?	Yes	Since there is no merger review for conglomerate transactions, concentration must be informed to the Authority when there is a vertical or a horizontal transaction, and when the following thresholds are met:
		When individually or jointly the parties exceed during the last fiscal year the amount of operational income or assets established by SIC.
		When individually or jointly the parties represent 20% or more of the relevant market. However, when their share is inferior to 20%, the parties only must notify the transaction. The notification process is different from the information process described in a previous answer, as it consists of a simple procedure where the parties only have to report the transaction to the SIC, and the concertation is approved automatically.
		[If the answer is "yes", please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions]
Can the parties close the transaction before the	No	Articles 13 and 25, Law 1340 of 2009
final decision of the Authority (suspensory effect of merger notification)?		[Please mention the relevant provisions and add any explanation that you deem necessary]
Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations?	Yes	Articles 13 and 25, Law 1340 of 2009
		[Please mention relevant provisions]
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	Yes	Fines, structural relief and commitments. (Articles 13 and 25, Law 1340 of 2009)
		[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions]
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	Article 2 (11), Decree 2153 od 1992. The dawn raids do not require a judge's authorization.
		[If the answer is "yes", please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions]
Can the Competition Authority investigate ex officio	Yes	Article 52, Decree 2153 od 1992
cases?		[Please, mention the relevant provisions]
Does the Competition Authority have powers to accept leniency applications?	Yes	Any natural or moral person can apply to the leniency program if they are not the instigator of the conduct (Article 14, Law 1340 of 2009). The applicants must recognize their participation in the infringement, they are obliged to cease their illegal conduct, present to the Authority relevant elements of proof (Articles 4 and 5, Decree 2896 of 2010), and they have to apply before the Deputy Superintendent send his Motivated Inform of the investigation with his recommendations to the Superintendent (Article 16, Decree 2896 of 2010).
		Benefits: (Article 14, Law 1340 of 2009; Article 13, Decree 2896 of 2010; Paragraph Article 410, Colombian Criminal Code):
		The first applicant: Is exonerated from any applicable fines Is not held liable in a civil action for all the damages caused by the cartel; it is

Can the Competition Authority report to the legislature on the results of market studies?	Yes	There is no Law establishing that the studies are privileged information; therefore according to Law 1712 of 2014, they shall be published and can be reported to Congress.
	7.	[If the answer is "yes", include relevant provisions]
Can the Competition Authority carry out market studies?	Yes	Article 12 (8), Decree 2153 of 1992.
Research & Reporting		1 1 1 10 (0) D 0/10 1/100
		[Please, explain which kind of regulation and mention the relevant provision on which the powers are based]
Can the Competition Authority issue binding regulation on competition?	No	Note: SIC can establish the minimum amount of operational income, and the value of assets required for triggered the <i>ex-ante</i> merger review.
		 Guidelines on the economic analysis of abuse of dominance cases.
	non-pinding	√ Guidelines on merger control.
Can the Competition Authority issue guidelines?	Yes non-Binding	X Guidelines on the calculation of fines.
Rulemaking		
		[If the answer is yes, include relevant provisions]
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	Yes	The executive branch is obliged to request the opinion of the SIC when the regulation project can have an impact on the competition process (Article 7, Law 1340 of 2009 and Decree 2897 of 2010).
		[If the answer is yes, please specify if there is any kind of limitation to the agency's authority to issue opinions, include relevant provisions]
Can the Competition Authority issue opinions on draft legislation?	Yes	According to article 7 of Law no. 1340 of 2009 and Decree 2897 of 2010, only on administrative regulations that could have an effect on the competition process. The opinion of the Competition Authority is not binding, but the executive will have to justify the reasons why they did not follow the recommendation.
Advocacy		
		[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]
Does the Competition Authority have powers to accept seek criminal punishment?	No	In cases of bid rigging in public tender procedures, SIC can inform the Fiscalia aiming that this entity starts the criminal investigation.
		[If the answer is "yes", please mention if there is any limitation for the applicants, what are the benefits, and mention the relevant provisions. Include any commentary that you consider relevant about the leniency program]
		The rest of the applicants can be exonerated from 30% of the fines. If they are moral persons, their employees are covered by the exemption
		The third applicant is exonerated from 50% of the fines. If the third applicant is a moral person, its employees are covered by the exemption.
		The second applicant is exonerated from 70% of the fines. If the second applicant is a moral person, its employees are covered by the exemption.
		In cases of bid rigging in public tender procedures, the first applicant gets a 40% reduction of the criminal punishment sought by the Ficalía in the criminal procedure.
		only held accountable for the damages produced by its actions. If the applicant is a moral person, its employees are covered by the exemption.

		[If the answer is "yes", include relevant provisions]		
	DECIS	ION-MAKING		
Functions				
Aggregated Functions Does the Competition Authority make the decision	Yes	Article 52, Decree 2153 of 1992.		
to investigate and make guilty findings?	103	[If the answer is "yes", include relevant provisions]		
Does the Competition Authority impose	Yes	Articles 13, 25, and 26 Law 1340 of 2009		
punishments?		The authority can impose fines up to 20 million USD for each competition breach, and in gun-jumping cases, aside from the fines, it can order structural relief.		
		[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]		
Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	Yes	The Deputy Superintendent, who is appointed by the head of the agency, is in charge of the investigations. While the Superintendent of Industry and Commerce (head of the agency), is the one who makes the guilty findings and imposes sanctions.		
		It is important to highlight that it is the Law, which imposes the Deputy Superintendent the duty to write the decisions of the Superintendent of Industry and Commerce. The process is the following:		
		The Deputy Superintendent opens the investigation (ex-officio or by private complaint), and within the next 20 business days from the opening of the investigation, the investigated and third parties can present the evidence that they consider relevant to the process.		
		Once the Deputy has interrogated the witness, the parties, experts if applicable, the investigated and third parties can present in a hearing their final allegations before the Deputy.		
		After the hearing, the Deputy has to issue a report of the investigation, including his conclusions and recommendations to the Superintendent regarding whether the investigated parties are guilty or not.		
		Once the Superintendent has received the report, he holds a meeting with his board of advisors, and issues the final decision. The opinion of the board of advisors is not binding, and the parties have the opportunity to file a remedy of reconsideration in order for the Superintendent to review his own decision.		
		[Regardless of the answer please explain briefly the enforcement process until the final decision is issued, include relevant provisions, and if the answer is "yes" mention how the head of the body that carries out the investigation is elected and removed. The main idea of this last point is to establish whether the investigation authority is, in fact, independent from the decision-making body]		
Can the Competition Authority's decisions be appealed to a court?	Yes	The Superintendence of Industry and Commerce is an administrative body, with jurisdictional faculties in certain cases. On the one hand, its administrative decisions regarding industrial property, consumer protection, and competition law enforcement are subject to judicial review: <i>Tribunal Administrativo</i> and <i>Consejo de Estado</i> (Article 138, Law 1437 of 2011).		
		The interested parties must file an annulment petition before the administrative court within the next 4 months following the date in which the final decision was notified to the investigated parties.		
Discoonded comments in a control of the control of		[Please, mention the judicial authority who is charged with the review, make reference to the relevant provisions, and if there is any requirement to exercise the right of the judicial review]		
Please add commentaries or information that you consider relevant and were not covered in any of the				

previous sections and questions.	