

Chile

[Please introduce here the name of your country]

Competition Framework

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| Competition Law | Decree with force of Law no. 1 that fixes the consolidated, coordinated, and systematized Law Decree no. 211 of 1973, enacted on October 7, 2005 (“Competition Law”). |
| Competition Authority | <p>There are two entities: 1) the National Economic Prosecution Office (Fiscalía Nacional Económica – “FNE”), which started functioning in 1973 and the Competition Tribunal (Tribunal de Defensa de la Competencia – “TDLC”), which started functioning in 2003. FNE Website: https://www.fne.gob.cl/ TDCL Website: https://www.tdlc.cl/</p> <p>[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 and imposing sanctions. This point specifically excludes judicial authorities that only have judicial review powers]</p> |

Policy-Making Agents

-Diversification-

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| How many agencies are responsible for competition enforcement? | <p>Chile has two authorities overseeing compliance with competitor law:</p> <p>The National Economic Prosecution Office (FNE):</p> <p>Pursuant to Articles 33 and 39 of the Competition Law is an independent body under the surveillance of the executive branch through the Ministry of Economy. This agency carries out the investigation process and brings actions before the TDLC aiming to sanction competition law offenders. It is also in charge of the merger review process.</p> <p>The Competition Tribunal (TDLC): is a judicial body specializing in competition law; it makes the guilty findings and sanction imposition in the cases brought by FNE or persons affected by an anticompetitive conduct. It also reviews the FNE decisions on merger control.</p> <p>[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.]</p> |
| Do sector regulators have a competition policy enforcement mandate? | <p>No.</p> <p>[Please introduce the name 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]</p> |
| Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators? | <p>No.</p> <p>[Please mention here any provision or interinstitutional agreement that allows the competition authorities to coordinate behavior to effectively enforce competition law]</p> |

Disaggregated Functions

Prosecutorial Model

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| <p>Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?</p> | <p>Yes</p> | <p>The procedure has 2 stages. One administrative before de FNE and a trial before the TDLC which could have a second instance before the Supreme Court.</p> <p>According to Article 39 (a) of the Competition Law, the FNE can star an investigation procedure <i>ex officio</i> or by private complaint. Once the FNE has dice to open an investigation it has to inform the Alleged offenders unless the TDLC authorizes to carry keep the inquiry procedure confidential. The FNE is entitled to collect al sort of evidence and interviewing witnesses during this stage (Article 39 (j); Competition Law) however to conduct a dawn raid the agency must count with judicial authorization, which will only be granted on cartel cases. Finalized the investigation the FNE assess whether to file a suit before the TDLC.</p> <p>The trial stage could begin by a suit filed by FNE or by a private plaintiff. The Tribunal shall give a term of 3 business days for the plaintiff t to remedy in the event that it is incomplete. Upon expiration of the aforementioned term. Once the claim has been admitted for trial, the alleged offenders shall be given notice to answer within 15 working days (Completion Law Article 20). Once the term has elapsed, the TDLC may open a settlement stage, after which will be held a 20 day evidentiary period, if a settlement is not reached (Completion Law Article 22). Upon the termination of the probatory stage, the Tribunal will set forth a date to receive the party’s conclusion arguments (Completion Law Article 23) and after the TDLC must issue its final decision with next 45 days (Completion Law Article 26), which can be appeal, within 10 days, to the Supreme Court by any of the parties of the process, including the FNE. (Completion Law Article 27).</p> <p>[If the answer is yes, please, explain briefly the enforcement process, 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 are their functions.]</p> |
| <p>Are disputes presented for decision to judiciary authorities?</p> | <p>Yes</p> | <p>The TDLC is the first instance tribunal and decide the cases brought by the FNE, and private plaintiff.</p> <p>The Supreme Court acts appeal tribunal in competition cases reviewing the decision of the TDLC.</p> <p>[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.]</p> |
| <p>Do private rights of action to challenge competition law infringements exist in your jurisdiction</p> | <p>Yes</p> | <p>According to Competition Law Article 30 any person harmed by anticompetitive conduct condemned by the TDLC is entitled to claim damages before the same court.</p> <p>The claim must be filed within the 4 year after the TDLC has issue its decision sanctioning the anticompetitive conduct.</p> <p>There is also the possibility to file a class actions pursuant Article 51 of law 19946, those actions are also decided by the TDLC.</p> <p>[If the answer is “yes”, please explain briefly the process and who are the persons entitled to exercise those rights; mention the relevant provisions.]</p> |

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

Competition Tribunal (TDLC):

Status of the Competition Authority

| 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. | Answer with X/√ as it applies | | Please, in the boxes of this line mention the relevant provisions in which the obligations are based. |
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| 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. | |
| | | X | The Competition Authority has to report on an annual basis to the executive. | |
| Does the Competition Authority have obligations before the legislature? | No | X | 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. | |
| Does the Competition Authority have obligations before the judiciary or independent agencies? | Yes | √ | Decisions of the Competition Authority are subject to judicial review. | The Chilean Supreme Court acts as an appeal court reviewing the decisions of the TDLC [Aside from the relevant provisions please mention the judicial authority charged with the review.] |
| | | X | Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary? | [Aside from the relevant provisions, please mention the authority charged with the review.] |
| | | Other obligations/comments: Please introduce any other obligation or comment 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? | Yes | [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.] | | |

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| Does the executive retain decision-making powers over the Competition Authority? | No | |
| Is the Competition Authority obliged to publish reasoned decisions to ensure transparency? | Yes | Article 26 of the Competition Law specifies that the decision of the Tribunal must be reasoned. Article 20 of the said law provides that the processes conducted by the tribunal are public, and therefore the final decisions must be published. [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 | Article 17 of the Competition Law provides that: the Public Sector Budget Law shall annually consult the resources necessary for the operation of the TDLC. For such purposes, the President of this Court shall communicate to the Minister of Finance its budgetary needs. [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.)? | No | [Please introduce the relevant provisions and mention the means by which the authority can be financed on its own.] |

Governance of the Competition Authority

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| Is the Competition Authority governed by a single chairman or by a collegiate body? | Collegiate Body | [Answer “single chairman” if the directive organ of the authority is composed of one person. Answer “collegiate body” if the authority’s directive organ is composed of two or more members, regardless if this organ is directed or presided by a chairman or president.] |
| How are the members of the Authority’s directive organ chosen? | The TDCL is composed by 5 justices (2 economist and 3 lawyers). 1 lawyer and 1 economist is appointed by the Central Bank; 1 lawyer and 1 economist appointed by the Chilean President from the list of 3 candidates crafted by the Central Bank; and finally the Chair of the Tribunal who is also elected by the Chilean President from a list of 5 candidates chosen by the Supreme Court (Article 6 Competition Law). | [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 | Directors are appointed by a staggered 6-year tenure and they can be removed on grounds provided on Article 12 of the Competition Law. [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 | The 6-year tenure can be renewed once (Articles 7 of the Competition Law). [Please, introduce the relevant provisions.] |
| Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)? | Yes | Pursuant Article 6, the Chair must be a lawyer with outstanding professional or academic activity specialized in antitrust matters or in commercial or economic law, and have at least 10 years of professional practice. The other members must be professionals with expertise in antitrust matters (2 lawyers and 2 graduates or postgraduates in economic sciences) [If your answer is “yes”, please make reference to the qualifications required by law and the relevant provisions]. |

Architecture

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| 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 | |
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POLICY DUTIES

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| Does the Competition Authority have an exclusive mandate on competition or multiple mandates? | Single | X | Concurrent consumer protection mandate. |
| | | X | Concurrent IP mandate. |
| | | Other mandates: | |
| Portfolio Instruments | | | |
| Law Enforcement | | | |
| Does the Competition Authority have powers to investigate cartels? | Yes | <p>According to Articles 18, 3 of the Completion Law Commission has broad powers to make guilty findings and impose sanctions to those who partake in an agreement.</p> <p>Pursuant to Article 26 of the Competition Law, it can impose behavioral and structural remedies as well as fines up to i) 30% percent of the sales of the offender corresponding to the line of products involved; ii) twice the economic benefit reported by the infringement; or iii) 60 thousand annual tax units (Approx. 50.000.000,00 USD</p> <p>[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.]</p> | |
| Does the Competition Authority have powers to investigate unilateral Conduct? | Yes | <p>According to Articles 18, 3 of the Completion Law Commission has broad powers to make guilty findings and sanctions offenders in unilateral conduct cases.</p> <p>Pursuant to Article 26 of the Competition Law, it can impose behavioral and structural remedies as well as fines up to i) 30% percent of the sales of the offender corresponding to the line of products involved; ii) twice the economic benefit reported by the infringement; or iii) 60 thousand annual tax units (Approx. 50.000.000,00 USD</p> <p>[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.]</p> | |
| Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger review? | Yes | <p>The Tribunal reviews merger cases decision issued by the FNE. See, the answer provided below in the FNE form.</p> <p>[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.]</p> | |
| Is the notification of merger transactions mandatory? | Yes | <p>See, the answer provided below in the FNE form.</p> <p>[If the answer is “yes”, please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions.]</p> | |
| Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)? | No | <p>See the answer provided below in the FNE form</p> <p>[Please mention the relevant provisions and add any explanation that you deem necessary.]</p> | |
| Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations? | No | <p>See, the answer provided below in the FNE form.</p> <p>[Please mention relevant provisions.]</p> | |
| Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations? | Yes | <p>According to Articles 3 bis, 4 and 26 of the Competition Law, the TLDC can:</p> <ol style="list-style-type: none"> 1. modify or terminate the acts, contracts, agreements, systems or arrangements that are contrary to the provisions of this law; 2. order the modification or dissolution of the companies, corporations and other legal persons of private law that have intervened in the acts, contracts, covenants, systems or agreements referred to in the preceding letter; | |

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| | | <p>3. Impose fines up to an amount equivalent to 30% percent of the sales of the offender corresponding to the line of products or services associated with the infringement during the period for which it has been extended or up to twice the economic benefit reported by the infringement. In the event that it is not possible to determine the sales or the economic benefit obtained by the infringer, the Court may apply fines up to a sum equivalent to 60 thousand annual tax units (Approx. 50.000.000,00 USD) . The fines may be imposed on the corresponding legal person, its directors, administrators and any person who has intervened in the performance of the respective act. Fines applied to natural persons may not be paid by the legal person in which they exercised functions or by the shareholders or partners thereof.</p> <p>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions.]</p> |
| Does the Competition Authority have powers to conduct dawn raids at premises? | No | [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 <i>ex officio</i> cases? | No | [Please, mention the relevant provisions.] |
| Does the Competition Authority have powers to accept leniency applications? | Yes | <p>The leniency program is addressed in Articles 39 Bis and 63 of the Competition Law. According to those provisions any person that has not been the cartel instigator can access to leniency.</p> <p>Benefits are only granted for the first 2 applicants. The first one is exempted completely from the fine and criminal liability. The second one is exempted from 50% of the fine and the criminal liability will be reduced.</p> <p>For the benefits to be granted, the applicant must:</p> <ol style="list-style-type: none"> 1. Provide accurate, truthful and verifiable background information that represents an effective contribution to the constitution of sufficient evidence to substantiate a claim before the Court; 2. Refrain from disclosing the request for these benefits until the Prosecutor's Office has issued the request or ordered the filing of the background of the request, unless the Prosecutor's Office expressly authorizes its disclosure; 3. Terminate his or her participation in the conduct immediately after filing his or her application; 4. Collaborate during the FNE investigation and the trial procedure before the TDLC. <p>The Tribunal make the decision to grant the benefits in its final decision.</p> <p>[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.]</p> |
| Does the Competition Authority have powers to accept seek criminal punishment? | Yes | <p>But the criminal prosecutor and the criminal courts can impose criminal liability to natural person involved partaking in an anticompetitive conduct. It can impose from 3 to 10 years of imprisonment. The criminal liability is reserved only for persons involved in hardcore cartels.</p> <p>The criminal procedure can only take place after the TDLC has already condemn a cartel.</p> <p>Title V of the Competition Law addresses Criminal liability.</p> <p>[If the answer is “yes”, please mention the different kinds of sanctions that the agency can impose.]</p> |
| Advocacy | | |
| Can the Competition Authority issue opinions on draft legislation? | Yes | <p>Yes Article 18 (4) of the Competition Law.</p> <p>[if the answer is yes, please specify if there is any kind of</p> |

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| | | limitation to the agency's authority to issue opinions, 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? | No | [if the answer is yes, include relevant provisions.] |
| Rulemaking | | |
| Can the Competition Authority issue guidelines? | Non-Binding | X Guidelines on the calculation of fines. |
| | | X Guidelines on merger control. |
| | | X Guidelines on the economic analysis of abuse of dominance cases. |
| Can the Competition Authority issue binding regulation on competition? | Yes | Article 18 (3) of the Competition Law provides that the TDLC is entitled to issue general instructions in accordance with the law, which must be considered by private parties in the acts or contracts they execute or enter into and which are related to free competition or may threaten it. [Please, explain which kind of regulation and mention the relevant provision on which the powers are based.] |
| Research & Reporting | | |
| Can the Competition Authority carry out market studies? | No | [If the answer is "yes", include relevant provisions.] |
| Can the Competition Authority report to the legislature on the results of market studies? | No | [If the answer is "yes", include relevant provisions.] |
| Decision-Making Functions | | |
| Aggregated Functions | | |
| Does the Competition Authority make the decision to investigate and make guilty findings? | No | [If the answer is "yes", include relevant provisions.] |
| Does the Competition Authority impose punishments? | Yes | According to Article 26 of the Competition Law, the TLDC can: 4. modify or terminate the acts, contracts, agreements, systems or arrangements that are contrary to the provisions of this law; 5. order the modification or dissolution of the companies, corporations and other legal persons of private law that have intervened in the acts, contracts, covenants, systems or agreements referred to in the preceding letter; 6. Impose fines up to an amount equivalent to 30% percent of the sales of the offender corresponding to the line of products or services associated with the infringement during the period for which it has been extended or up to twice the economic benefit reported by the infringement. In the event that it is not possible to determine the sales or the economic benefit obtained by the infringer, the Court may apply fines up to a sum equivalent to 60 thousand annual tax units (Approx. 50.000.000,00 USD) . The fines may be imposed on the corresponding legal person, its directors, administrators and any person who has intervened in the performance of the respective act. Fines applied to natural persons may not be paid by the legal person in which they exercised functions or by the shareholders or partners thereof. [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? | No | Please, see the answer provided in the Prosecutorial Model section. [Regardless of the answer please explain briefly the enforcement process until the final decision is issued, include relevant provisions, and if the answer is "No" mention how the head of the body that carries out the investigation is elected and removed. The main idea of this |

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| | | 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 | Yes, the decisions of the TDLC can be appealed before the Supreme court. Please see the answer provided in the Prosecutorial Model section. [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. | | |

| The National Economic Prosecution Office (FNE): | | | | |
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| Status of the Competition Authority | | | | |
| 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. | Answer 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. | |
| | | √ | The Competition Authority has to report on an annual basis to the executive. | Article 33 establishes that the FNE is subject to the surveillance of the Chilean president and the Ministry of Economy |
| Does the Competition Authority have obligations before the legislature? | No | X | 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. | |
| Does the Competition Authority have obligations before the judiciary or independent agencies? | Yes | √ | Decisions of the Competition Authority are subject to judicial review. | The TDLC make the decisions in antitrust cases [Aside from the relevant provisions please mention the judicial authority charged with the review.] |
| | | X | Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary? | [Aside from the relevant provisions, please mention the authority charged with the review.] |

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| | | Other obligations/comments: Please, introduce any other obligation or comment 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? | Yes | [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 | |
| Is the Competition Authority obliged to publish reasoned decisions to ensure transparency? | Yes | Article 26 of the Competition Law specifies that the decision of the Tribunal must be reasoned. Article 20 of the said law provides that the processes conducted by the tribunal are public, and therefore the final decisions must be published. [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? | No | The TDLC is the one tasked with the decision-making authority. The investigation conducted by the FNE, and only the alleged offenders can access the file unless the Tribunal has authorized otherwise. [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 | Article 44 of the Competition Law, provides that the FNE can be financed by the funds and other sums it may receive from the proceedings in which it participates. [Please introduce the relevant provisions and mention the means by which the authority can be financed on its own.] |
| Governance of the Competition Authority | | |
| Is the Competition Authority governed by a single chairman or by a collegiate body? | Single Chairman [Answer "single chairman" if the directive organ of the authority is composed of one person. Answer "collegiate body" if the authority's directive organ is composed of two or more members, regardless if this organ is directed or presided by a chairman or president.] | |
| How are the members of the Authority's directive organ chosen? | Is appointed by the President of the Republic through the process of selection of senior public executives. (Article 33 Competition Law) [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 | The Director is elected by a 4 year tenure and it can be removed on the grounds set forth in Article 33 of the Competition Law. [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 | The 4 year tenure can be renewed once (Articles 33 of the Competition Law). [Please, introduce the relevant provisions.] |

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| Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)? | Yes | Pursuant Article 33, the Director must have a law degree and ten years of professional practice or three years in public the public office. [If your answer is “yes”, please make reference to the qualifications required by law and the relevant provisions.] |
| 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 ministry? | Stand alone | |
| Policy Duties | | |
| Does the Competition Authority have an exclusive mandate on competition or multiple mandates? | Single | <input checked="" type="checkbox"/> Concurrent consumer protection mandate. |
| | | <input checked="" type="checkbox"/> Concurrent IP mandate. |
| | | Other mandates: |
| Portfolio Instruments | | |
| Law Enforcement | | |
| Does the Competition Authority have powers to investigate cartels? | Yes | According to Articles 39, 3 of the Completion Law FNE has broad powers to investigate those who partake in an agreement. The TDLC is the body entrusted with sanctioning authority. [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 | According to Articles 39, 3 of the Completion Law FNE has broad powers to investigate alleged offenders in unilateral conduct cases. The TDLC is the body entrusted with sanctioning authority. [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 <i>ex-ante</i> merger review? | Yes | The merging parties must file a request. Once the FNE has received the document, it must assess within 10 business days whether the filing is complete (Competition Law, Article 50). If the submission is admitted, the FNE must publish the resolution which starts the investigation (Competition Law, Article 51), and will carry phase I of the investigation during the following 30 business days. In this stage the competition Authority can: a) Approve the notified transaction, if it is convinced that the transaction is not suitable to substantially reduce the competition; b) Approve the notified transaction, subject to compliance with the measures offered by the notifying party, or c) or start phase II of the investigation, which can last 90 additional business days. For that purpose the FNE shall issue a substantiated resolution that should be notify to the merging parties. This stage only proceeds when the FNE deems that the notified transaction, if completed in its pure and simple form or subject to the measures offered by the parties, may substantially lessen competition. (Competition Law, Article 54), At the end of the second stage the FNE must issue its final decision approving the notified transaction; approving it subject to the measures offered by the notifier, if it is satisfied that such measures, will prevent the |

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| | | <p>anticompetitive effect ; or banding it, if it concludes that the transaction is likely to substantially lessen competition.</p> <p>[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.]</p> |
| Is the notification of merger transactions mandatory? | Yes | <p>Article 47 of the Competition Law provides that a concentration operation shall be understood as any fact, act or convention, or group of them, which has the effect that two or more economic agents that are not part of the same business group and that are previously independent from each other, cease to be independent in any area of their activities.</p> <p>The concentrations must be notified when the following thresholds set forth by the FNE (Resolution 157 of 2019 and Article 48 of the Competition Law) are met:</p> <p>The sum of the sales in Chile of the economic agents that plan to merge must have reached, during the fiscal year prior to the one in which the notification is made, amounts equal to or greater than 2.500.000 UF (Approx. 110.000.000,00 USD)</p> <p>That in Chile, separately, at least two of the economic agents that plan to concentrate have generated sales, during the fiscal year prior, for amounts equal to or greater than 450.000 UF (Approx. 19.800.000,00 USD)</p> <p>[If the answer is “yes”, please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions.]</p> |
| Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)? | No | <p>See Articles 48 and 49 Competition Law</p> <p>[Please mention the relevant provisions and add any explanation that you deem necessary.]</p> |
| Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations? | Yes | <p>According to Article 39, 3 and 48, the FNE can carry out ex-post-merger investigation, and file a suit Before the TDLC when it finds that the merging parties has fail with their duty to inform.</p> <p>[Please mention relevant provisions.]</p> |
| Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations? | No | <p>The TDLC is the body imposing the sanctions. See, answer provided in the TDLC section.</p> <p>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions.]</p> |
| Does the Competition Authority have powers to conduct dawn raids at premises? | Yes | <p>According to Competition law Article 39 (n)(1) The FNE can conduct dawn raids subject to a judge approval and only in cartel cases.</p> <p>[If the answer is “yes”, please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions.]</p> |
| Can the Competition Authority investigate <i>ex officio</i> cases? | Yes | <p>Based on the Competition Law Article 39(a).</p> <p>[Please, mention the relevant provisions.]</p> |
| Does the Competition Authority have powers to accept leniency applications? | Yes | <p>See, answer provided in the TDLC section.</p> <p>[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.]</p> |
| Does the Competition Authority have powers to accept seek criminal punishment? | No | <p>[If the answer is “yes”, please mention the different kinds of sanctions that the agency can impose.]</p> |
| Advocacy | | |
| Can the Competition Authority issue opinions on draft legislation? | Yes | <p>Article 18 (4) of the Competition Law.</p> <p>[if the answer is yes, please specify if there is any kind of</p> |

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| | | limitation to the agency's authority to issue opinions, 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? | No | [if the answer is yes, include relevant provisions.] |
| Rulemaking | | |
| Can the Competition Authority issue guidelines? | Non-Binding | √ Guidelines on the calculation of fines. |
| | | √ Guidelines on merger control. |
| | | √ Guidelines on the economic analysis of abuse of dominance cases. |
| Can the Competition Authority issue binding regulation on competition? | Yes | Article 18 (3) of the Competition Law provides that the TDLC is entitled to issue general instructions in accordance with the law, which must be considered by private parties in the acts or contracts they execute or enter into and which are related to free competition or may threaten it. [Please, explain which kind of regulation and mention the relevant provision on which the powers are based.] |
| Research & Reporting | | |
| Can the Competition Authority carry out market studies? | No | [If the answer is "yes", include relevant provisions.] |
| Can the Competition Authority report to the legislature on the results of market studies? | No | [If the answer is "yes", include relevant provisions.] |
| Decision-Making Functions | | |
| Aggregated Functions | | |
| Does the Competition Authority make the decision to investigate and make guilty findings? | No | [If the answer is "yes", include relevant provisions.] |
| Does the Competition Authority impose punishments? | No | [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? | No | Please, see the answer provided in the Prosecutorial Model section. [Regardless of the answer please explain briefly the enforcement process until the final decision is issued, include relevant provisions, and if the answer is "No" 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? | No | Please, see the answer provided in the Prosecutorial Model section. [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. | | |