

## Canada

### COMPETITION FRAMEWORK

<p>Competition Law</p>	<p>Competition Act enacted in June 1986. Most recent revision in June 2022. R.S.C., 1985, c. C-34. Competition Tribunal Act enacted in June 1986. R.S.C., 1985, c. 19.</p> <p><i>[Please introduce the name of the laws constituting the National Competition Law Regime. Include the year of enactment and the corresponding amendments as well.]</i></p>
<p>Competition Authority</p>	<p>Competition Bureau/<i>Bureau de la Concurrence</i>.</p> <p>Established with passage of the Competition Act in 1986 (Part II, § 7(1)) and replacing the Combines Investigation Act of 1923. Law enforcement agency within Innovation, Science &amp; Economic Development Canada. The Bureau is led by a Commissioner of Competition – currently Matthew Boswell.</p> <p><b>Website:</b> <a href="https://ised-isde.canada.ca/site/competition-bureau-canada/en">https://ised-isde.canada.ca/site/competition-bureau-canada/en</a></p> <p>Competition Tribunal/<i>Tribunal de la Concurrence</i>.</p> <p>Evolved from the Restrictive Trade Practices Commission with passage of the Competition Act. Comprised of legal and economic experts.</p> <p><b>Website:</b> <a href="https://www.ct-tc.gc.ca/en/home.html">https://www.ct-tc.gc.ca/en/home.html</a></p> <p><i>[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]</i></p>

### POLICY-MAKING AGENTS—DIVERSIFICATION

<p>How many agencies are responsible for competition enforcement?</p>	<p>Canada has two authorities with a mandate to enforce competition law infringements. The first, the Competition Bureau, is responsible for competition investigations, merger review, and decisions on prosecution. The second, the Competition Tribunal, is the adjudicative body responsible for hearing both civil and criminal cases related to potential antitrust violations.</p> <p><b>Competition Bureau:</b> The Competition Bureau/Bureau de la Concurrence is a law enforcement agency charged with civil and criminal enforcement of the Competition Act (as well as several other consumer protection laws). The Bureau is housed under Innovation, Science &amp; Economic Development Canada – a department-level division of the Canadian Federal Government. The Competition Bureau has the authority to conduct merger review and investigate restrictive trade practices. The Bureau can enter consent decrees/divestiture agreements or pursue a civil action with the Competition Tribunal to block a merger. (Part VIII and IX) The Bureau can refer criminal prosecutions of anticompetitive actions such as price fixing, wage fixing, bid-rigging, price fixing and other illegal cartel behavior to the Public Prosecution Service of Canada; such actions are similarly heard by the Competition Tribunal. (Part VIII)</p> <p><b>Competition Tribunal:</b> The Competition Tribunal/Tribunal de la Concurrence is the adjudicative body charged with hearing both civil and criminal competition cases under Parts VII.1 and VIII of the Competition Act. The tribunal is composed of both legal and economics experts and all penalties pursued by the Competition Bureau are approved by the body. Additionally, the tribunal is empowered to hear actions from private parties where allowed by the Competition Act. However, the tribunal does not have jurisdiction</p>
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	<p>over competition-related class-action suits – which are the responsibility of provincial courts.</p> <p><i>[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]</i></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>Yes. (<a href="#">For example, the Department of Public Works &amp; Government Services</a> and <a href="#">Ontario Securities Commission</a>)</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

Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?	Yes	<p>Despite being housed within a Federal Department, the Bureau is an independent law enforcement agency. In each case of potential enforcement, the Competition Bureau will begin an investigation into anticompetitive practices. The bureau retains the unilateral authority to determine whether or not to pursue civil or criminal sanctions against potential offenders. Even in the case of criminal prosecutions referred to PPSC, the bureau decides whether or not the case is brought. Additionally, the bureau retains the ability to seek non-judicial remedies such as divestiture agreements in the case of merger review or other settlements. Cases are made before the Competition Tribunal – a specialized court consisting of economists, business experts, and legal experts. The tribunal retains the ability to make a final ruling on cases that go into adjudication.</p> <p><i>[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.]</i></p>
Are disputes presented for decision to judiciary authorities?	Yes	<p>All disputes are argued before the Competition Tribunal – a specialized court consisting of economists, business experts, and legal experts. Decisions of the Competition Tribunal are themselves subject to appeal to the Federal Court of Appeal (R.S.C., 1985, c. 19 § 13).</p> <p><i>[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.]</i></p>
Do private rights of action to challenge competition law infringements exist in your jurisdiction	Yes	<p>Private action for parties directly impacted by anticompetitive behavior is allowed. As of 2022, this includes private action over abuse of dominance cases. In non-class action cases, the Competition Tribunal retains jurisdiction to hear these cases. However, for class-action</p>

		<p>suits focused on anti-competitive behavior, provincial courts retain jurisdiction. § 36 of the Competition Act allows individuals who have ‘suffered loss or damage’ to have standing to bring such cases. In some instances, purchasers harmed indirectly through increased prices for goods or services which themselves were made more expensive due to upstream anti-competitive practices have been found to have standing. The statute of limitations for bringing such actions is two years following the day on which anticompetitive conduct was engaged in or after the day on which criminal proceedings were completed. (R.S.C., 1985, c. C-34 § 36(4))</p> <p><i>[If the answer is “yes”, please briefly explain the process and who are the persons entitled to exercise those rights; mention the relevant provisions.]</i></p>
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*\* Please fill the next sections for each of the authorities mentioned in the prior sections excluding sector regulators*

**COMPETITION BUREAU / BUREAU DE LA  
CONCURRENCE**

**STATUS OF THE COMPETITION AUTHORITY**

<b>Accountability</b>	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	√	Obligations to report to the executive on on-going investigations upon request.	R.S.C., 1985, C-34, § 28
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.	
		√	The executive has to report on an annual basis to the executive.	R.S.C., 1985, C-34, § 127
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.	R.S.C., 1985, C-34, § 127
		X	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.	Statute 14-15 Elizabeth II, c. 25 (General jurisdiction of Treasury Board Secretariat)
Does the Competition Authority have obligations before the judiciary or independent agencies?	Yes	√	Decisions of the Competition Authority are subject to judicial review.	<p>All disputes are presented before the Competition Tribunal – a specialized court consisting of economists, business experts, and legal experts.</p> <p><i>[Aside from the relevant provisions]</i></p>

			<i>please mention the judicial authority charged with the review.</i>
		X	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?  <i>[Aside from the relevant provisions, please mention the authority charged with the review.]</i>
		<b>Other obligations/comments:</b> Please introduce any other obligation or comment that you consider relevant.  <i>[Introduce any comment that you consider relevant regarding the status of accountability of accountability of the competition authority]</i>	
<b>Independence</b>		Please, answer “Yes” or “No”	
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	R.S.C., 1985, c. C-34 § 7(1). <i>[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.]</i>	
Does the executive have powers to decide on specific cases based on public interest?	No	<i>[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.]</i>	
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	All enforcement actions of the Competition Bureau are presented to the Competition Tribunal, which is a Court of Record (R.S.C., 1985, c. 19 § 9(1))  <i>[Please introduce the relevant provisions.]</i>	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	No	Funds Appropriated as part of Innovation, Science & Economic Development Canada. While specific mention is made of appropriations for the activities of the Competition Bureau, no specific appropriation is made to the Competition Bureau.  <i>[Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved]</i>	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	Departments may “expend revenues that it receives in a fiscal year through the conduct of its own operations to offset expenditures that it incurs in the fiscal year” (R.S.C., 1985, c. F-11 §29.1(2)(a))  <i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i>	
<b>GOVERNANCE OF THE COMPETITION AUTHORITY</b>			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Single Commissioner  <i>[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. Also mention how many board members or directors are part of the Direction Body]</i>		

How are the members of the Authority's directive organ chosen?	Appointment by Governor in Council (R.S.C., 1985, c. C-34 § 7(1).) In this case, the Governor in Council is the Minister of Innovation, Science and Economic Development. There is no statutorily mandated term period for the Commissioner. However, terms have generally been for five years.  <i>[Please describe the electing process for choosing the members of the directive organ. Include relevant provisions; mention the branch government involved in this process]</i>		
Is there a fixed period during which removal is prohibited?	No	There are no removal provisions within the Competition Act for the Commissioner and commissioners of independent agencies are not removable except for by statutorily enumerated means or by legislation.  <i>[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.]</i>	
Is the tenure of the heads renewable?	Yes	No term limitations in the Competition Act.  <i>[Please, introduce the relevant provisions.]</i>	
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	No	<i>[If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions].</i>	
<b>ARCHITECTURE</b>			
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?	Independent*	The Competition Bureau is an independent law enforcement agency, meaning it is not under the direct purview of the executive. *However, it is funded through Innovation, Science & Economic Development Canada. The bureau is collocated with the Canadian Intellectual Property Office in Gatineau, QC.  <i>[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized.]</i>	
<b>POLICY DUTIES</b>			
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Multiple	√	Concurrent consumer protection mandate.
		Somewhat	Concurrent IP mandate.
		<b>Other mandates:</b> Precious Metals regulation  <i>[Include any other mandates entrusted to the Competition Authority]</i>	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>Law Enforcement</b>			
Does the Competition Authority have powers to investigate cartels?	Yes	R.S.C., 1985, c. C-34, Part VIII. Investigated by the Cartels and Deceptive Marketing Practices Branch. May pursue both criminal and civil actions. Imprisonment of up to 14 years can be sought alongside fines. (Part VI). May petition for civil injunctions (§ 90.1) The actual sanctions imposed are determined by the Competition Tribunal.  <i>[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.]</i>	

Does the Competition Authority have powers to investigate unilateral Conduct?	Yes	<p>R.S.C., 1985, c. C-34, Part VIII. May investigate restrictive trade practices (e.g, refusal to deal, abuse of dominant position, delivered pricing, etc.). May pursue civil enforcement actions including behavioral obligations and fines in some instances.</p> <p><i>[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.]</i></p>
Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger review?	Yes	<p>R.S.C., 1985, c. C-34, §§ 91-92. May instigate <i>ex-ante</i> merger review and seek to block, partially-block, create behavioral obligations, or enter a consent decree (including divestitures). All merging parties subject to review (see below) must notify the Competition Bureau and wait 30 days after Bureau receives notification of transaction to complete merger. Requests for additional information by the Bureau extend that period by another 30 days. During this period, the Bureau may ask additional questions or file civil relief with the Competition Tribunal before the transaction is finalized.</p> <p><i>[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]</i></p>
Is the notification of merger transactions mandatory?	Yes*	<p>Transactions must be reported subject to transaction size threshold set by the Minister of Innovation, Science and Industry subject to a formula established in the Competition Act. Currently, the bureau must be notified when the target's assets in Canada or revenues from sales in or from Canada generated from those assets exceed \$93 million, and when the combined Canadian assets or revenues of the parties and their respective affiliates in, from or into Canada exceed \$400 million. <i>See</i> R.S.C., 1985, c. C-34, Part IX. <i>See</i> § 110(8) for threshold formula.</p> <p>Information to be included in a notice of merger transaction not established by the Competition Act. However, the Bureau encourages use of its published <a href="#">form</a>.</p> <p><i>[If the answer is "yes", please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions]</i></p>
Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)?	No	<p>R.S.C., 1985, c. C-34, §123 requires that mergers subject to notification must wait 30 days after Bureau receives notification of transaction to complete merger. Requests for additional information by the Bureau extend that period by another 30 days. After this point, parties may complete transaction unless party entered timing agreement with the Bureau or the Competition Tribunal issues an order barring completion of the transaction.</p> <p><i>[Please mention the relevant provisions and add any explanation that you deem necessary]</i></p>
Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations?	Yes	<p>R.S.C., 1985, c. C-34, §§ 91</p> <p><i>[Please mention relevant provisions]</i></p>

Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	No	<p>The Competition Tribunal is responsible for imposing remedies on defendants. However, potential remedies include dissolving a merger, disposing of specified assets, or “with the consent of the person against whom the order is directed and the Commissioner [of the Competition Bureau], take other action.” R.S.C., 1985, c. C-34, § 92(1)(e)</p> <p><i>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions]</i></p>
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	<p>Raids may be authorized by a judge-issued warrant between 6:00am and 9:00pm. R.S.C., 1985, c. C-34, § 15.</p> <p><i>[If the answer is “yes”, please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions]</i></p>
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<p><i>[Please, mention the relevant provisions]</i></p>
Does the Competition Authority have powers to accept leniency applications?	Yes	<p>The Bureau may afford a party complete immunity to a party if the applicant is the first to disclose all elements of an offense that the Bureau was unaware of, or if the party is the first to come forward before the Bureau gathers sufficient evidence to warrant a referral of the matter to prosecutors. Applicants must stop participating in illegal activity and cannot have been a party that coerced others into the illegal activity. Applicants for immunity must cooperate fully with the Bureau. The steps for applying for immunity are four part, including (1) an immunity request/marker guaranteeing that they are “first in line” for purposes of possible immunity, (2) proffer a statement describing the unlawful conduct, (3) a grant of interim immunity conditioned on full disclosure and cooperation, and (4) an immunity agreement being submitted to prosecutors for acceptance.</p> <p>The Bureau may afford a party leniency even if it does not qualify for immunity if it (1) has terminated its participation in the cartel (2) agrees to cooperate fully, timely, and on its own expense with Bureau investigations, (3) demonstrates that it was party to the offense, and (4) pleads guilty. Applications for leniency must be made <i>before</i> case referral to the Director of Public Prosecutions. Fines will be imposed subject to mitigation (of up to 50%) based on leniency cooperation credits which are calculated based on the utility of cooperation to Bureau’s ability to advance an investigation into other culpable parties. The leniency application follows a seven-step process: initial contact (marker request), proffer and limited disclosure, leniency recommendation, plea agreement, full disclosure, court proceedings and ongoing cooperation. The applicant will have 30 days from the date the marker was granted to complete its proffer and is expected to complete its limited disclosure within 60 days from the completion of its proffer. Following the plea agreement, the leniency applicant will be expected to complete its full disclosure within six months. Applicants who fail to advance their matters in a timely manner may be expelled from the Leniency Program.</p> <p>Both immunity and leniency only apply to criminal proceedings. However, parties applying for leniency may have their level of mitigation increased due to cooperation with civil litigation subject to their obligations to the Competition Bureau.</p> <p>Further details on the leniency program can be found in the</p>

		<p>publication <i>Immunity and Leniency Programs under the Competition Act</i> (<a href="#">link</a>).</p> <p><i>[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]</i></p>
Does the Competition Authority have powers to accept seek criminal punishment?	Yes	<p>Bureau can seek imprisonment in addition to criminal fines for conspiratorial competition behavior. <i>See</i> R.S.C., 1985, c. C-34 § 90.1.</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i></p>
<b>Advocacy</b>		
Can the Competition Authority issue opinions on draft legislation?	Yes	<p>The Bureau has responded to specific inquiry from Innovation, Science &amp; Economic Development Canada regarding recommendations for antitrust enforcement <a href="#">as recently as March 2023</a>. The Policy, Planning and Advocacy Directorate manages parliamentary relations.</p> <p><i>[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]</i></p>
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>[If the answer is yes, include relevant provisions]</i>
<b>Rulemaking</b>		
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?	No	The Bureau does not itself have the power to issue binding regulation. Innovation, Science & Economic Development Canada, the Bureau's parent ministry, may issue regulations.
<b>Research &amp; Reporting</b>		
Can the Competition Authority carry out market studies?	Yes	Textually implied in the Competition Act. Completed by the Bureau's Digital Enforcement and Intelligence Branch.
Can the Competition Authority report to the legislature on the results of market studies?	Yes	Bureau must report to the legislature annually on actions under the Competition Act. R.S.C., 1985, C-34, § 127.
<b>DECISION-MAKING FUNCTIONS</b>		
<b>Aggregated Functions</b>		
Does the Competition Authority make the decision to investigate and make guilty findings?	Yes	<p>The Bureau makes the unilateral decision to investigate, but findings of guilt are made only by the Competition Tribunal.</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>
Does the Competition Authority impose punishments?	No	The Competition Tribunal imposes punishment. However, the Bureau can enter into consent decrees.



		<i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i>
Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	No	The Competition Bureau is responsible for investigations both civil and criminal. If they choose to seek either civil or criminal remedies, they will bring the case before the Competition Tribunal to make guilty findings. As a note, the Public Prosecution Service of Canada completes the litigation before the tribunal.  <i>[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]</i>
Can the Competition Authority's decisions be appealed to a court?	Yes	All findings of wrongdoing and civil or criminal liability are assigned by the Competition Tribunal. Decisions of the Competition Tribunal are themselves subject to appeal to the Federal Court of Appeal (R.S.C., 1985, c. 19 § 13)  <i>[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.]</i>
Please add commentaries or information that you consider relevant and were not covered in any of the previous sections and questions.		

**COMPETITION TRIBUNAL/TRIBUNAL DE LA CONCURRENCE**

**STATUS OF THE COMPETITION AUTHORITY**

<b>Accountability</b>	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?	No	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	
		X	The executive 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.	Decisions of the Competition Tribunal are themselves subject to appeal to the Federal Court of Appeal (R.S.C., 1985, c. 19 § 13)

				<i>[Aside from the relevant provisions please mention the judicial authority charged with the review.]</i>
		X	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?	<i>[Aside from the relevant provisions, please mention the authority charged with the review.]</i>
		<b>Other obligations/comments:</b> Please introduce any other obligation or comment that you consider relevant.		
<b>Independence</b>		Please, answer “Yes” or “No”		
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	R.S.C., 1985, c. 19 §§ 3-7.  <i>[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.]</i>		
Does the executive have powers to decide on specific cases based on public interest?	No	<i>[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.]</i>		
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	The Competition Tribunal is a Court of Record (R.S.C., 1985, c. 19 § 9(1)) <i>[Please introduce the relevant provisions.]</i>		
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	No	The Administrative Tribunals Support Service of Canada is responsible for the logistics of the Competition Tribunal and is specifically appropriated for. However, lay members of the tribunal are paid as fixed by the Governor in Council. Judicial members of the tribunal are not paid beyond their wage as part of being a Federal Court judge st by the Judges Act. (R.S.C. 1985, c. J-1)  <i>[Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved]</i>		
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No	<i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i>		
<b>GOVERNANCE OF THE COMPETITION AUTHORITY</b>				
Is the Competition Authority governed by a single chairman or by a collegiate body?	Collegiate Body  <i>[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. Also mention how many board members or directors are part of the Direction Body]</i>			
How are the members of the Authority's directive	Members of the tribunal are appointed by the Governor in Council on the recommendation of the			

organ chosen?	Minister of Justice. Judicial Members must be appointed from among federal court judges. The Governor in council may establish an advisory committee to advise the Minister of Justice on appointments of non-judicial (lay) members. (R.S.C., 1985, c. 19 § 3)		
	<i>[Please describe the election process for choosing the members of the directive organ. Include relevant provisions; mention the branch government involved in this process]</i>		
Is there a fixed period during which removal is prohibited?	No	Judicial members are not removable and serve their term so long as they remain federal court judges. Lay members may be removed by the Governor in Council for cause at any time. (R.S.C., 1985, c. 19 §§ 4-5)	
	<i>[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]</i>		
Is the tenure of the heads renewable?	Yes	No term limitations.	
	<i>[Please, introduce the relevant provisions]</i>		
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	Judicial Members must be appointed from among federal court judges. Lay members are not required to have any minimum qualifications, but are generally have experience in economics, industry, or commerce.	
	<i>[If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions].</i>		
<b>ARCHITECTURE</b>			
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?	Part of the Ministry of Justice	The Competition Tribunal is part of the federal judiciary.	
	<i>[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized.]</i>		
<b>POLICY DUTIES</b>			
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Exclusively Competition	√	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		<b>Other mandates:</b>	
		<i>[Include any other mandates entrusted to the Competition Authority]</i>	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>Law Enforcement</b>			
Does the Competition Authority have powers to investigate cartels?	No	All investigations are conducted by the Competition Bureau.	
	<i>[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.]</i>		
Does the Competition Authority have powers to investigate unilateral Conduct?	No	R.S.C., 1985, c. C-34, Part VIII. May investigate restrictive trade practices (e.g, refusal to deal, abuse of dominant position, delivered pricing, etc.). May pursue civil enforcement actions including behavioral obligations and fines in some instances.	
	<i>[If the answer is "yes", please mention briefly if the competition authority is invested with the power to pursue exploitative and</i>		

		<i>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.]</i>
Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger review?	No	All investigations are conducted by the Competition Bureau.  [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	Yes. See section on Competition Bureau.  [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 final decision of the Authority (suspensory effect of merger notification)?	No	No. See section on Competition Bureau.  [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?	No	All investigations are conducted by the Competition Bureau.  [Please mention relevant provisions]
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	No	All investigations are conducted by the Competition Bureau.  [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?	No	All investigations are conducted by the Competition Bureau.  [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	All investigations are conducted by the Competition Bureau.  [Please, mention the relevant provisions]
Does the Competition Authority have powers to accept leniency applications?	No	Management of leniency is conducted by the Competition Bureau subject to approval by federal prosecutors.  [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]
Does the Competition Authority have powers to seek criminal punishment?	Yes	The Tribunal can sentence for imprisonment in addition to criminal fines for conspiratorial competition behavior. See R.S.C., 1985, c. C-34 § 90.1.  [If the answer is “yes”, please mention the different kinds of sanctions that the agency can impose]
<b>Advocacy</b>		
Can the Competition Authority issue opinions on draft legislation?	No	While advisory opinions are legal in Canada, they are limited to the Supreme Court of Canada or – in provinces – to the highest appellate authority in that province.  [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]

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>[If the answer is yes, include relevant provisions]</i>
<b>Rulemaking</b>		
Can the Competition Authority issue guidelines?	No	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?	No	The Tribunal can only issue rules relating to the procedure of the court which themselves are reviewable by the Governor in Council.  <i>[Please, explain which kind of regulation and mention the relevant provision on which the powers are based]</i>
<b>Research &amp; Reporting</b>		
Can the Competition Authority carry out market studies?	No	<i>[If the answer is "yes", include relevant provisions]</i>
Can the Competition Authority report to the legislature on the results of market studies?	No	<i>[If the answer is "yes", include relevant provisions]</i>
<b>DECISION-MAKING FUNCTIONS</b>		
<b>Aggregated Functions</b>		
Does the Competition Authority make the decision to investigate and make guilty findings?	Yes	While the Bureau makes the unilateral decision to investigate, findings of guilt are made only by the Competition Tribunal.  <i>[If the answer is "yes", include relevant provisions]</i>
Does the Competition Authority impose punishments?	Yes	The Competition Tribunal imposes punishment. However, the Bureau can enter into consent decrees.  <i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i>
Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	No	The Competition Bureau is responsible for investigations both civil and criminal. If they choose to seek either civil or criminal remedies, they will bring the case before the Competition Tribunal to make guilty findings. As a note, the Public Prosecution Service of Canada completes the litigation before the tribunal.  <i>[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.]</i>
Can the Competition Authority's decisions be appealed to a court?	Yes	All findings of wrongdoing and civil or criminal liability are assigned by the Competition Tribunal. Decisions of the Competition Tribunal are themselves subject to appeal to the Federal Court of Appeal (R.S.C., 1985, c. 19 § 13)  <i>[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.]</i>
Please add commentaries or information that you consider relevant and were not covered in any of the previous sections and questions.	The rules of the tribunal can be found <a href="#">here</a> .	