

Georgia

COMPETITION FRAMEWORK

Competition Law	<p>1. The Law of Georgia on Competition was enacted in April 2012, amended in April, 2022; May, 2021; September, 2020; July, 2020; December, 2019; March, 2014; December, 2013; September, 2013; July, 2012.</p> <p>2. The Law of Georgia on the Protection of Consumers Rights was enacted in March, 2022.</p> <p>3. Law of Georgia on the Introduction of Anti-Dumping Measures in Trade was enacted in July, 2020.</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>
Competition Authority	<p>The Georgian National Competition Agency established under Article 4.1 of the Law of Georgia on Competition and started operation in 2014.</p> <p>Website: https://gnca.gov.ge/.</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-

How many agencies are responsible for competition enforcement?	<p>Georgia has one authority with a general mandate to enforce competition law infringements:</p> <p>The Georgian National Competition Agency was created on the basis of the Law of Georgia „on Competition” and in line with the Regulation approved by the Decree №288 of the Government of Georgia of 14.04.2014. The Competition Agency is an independent legal entity of public law that is accountable to the Prime Minister of Georgia and the society.</p> <p>The main objective of the Agency is the implementation of competition policy, creation and protection of conditions for promotion of competition in Georgia and for this purpose prevention and elimination of all types of anti-competitive agreements and actions.</p> <p>The Agency is authorized to:</p> <ul style="list-style-type: none"> - Detect abuse of dominant position cases and act accordingly, within the powers provided by the legislation; - Identify the anticompetitive agreements and act accordingly, within the powers provided by the legislation; - Assess the compliance of the planned concentrations with the competitive environment and decide whether or not allow the concentration; - Detect the facts of the unfair competition of undertakings and act accordingly; - Examine compatibility of the actions performed by the state authorities, authorities of Autonomous Republic and local self-government of Georgia with the national competition legislation; - Control compatibility of the granted state aid with the national competition legislation; - Monitor and analyze the commodity and services markets with
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	<p>an aim to detecting competition distortion and unfair competition;</p> <ul style="list-style-type: none"> - Ensure the protection of local industry from dumping imports on the customs territory of Georgia (except for free industrial zones). <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>
<p>Do sector regulators have a competition policy enforcement mandate?</p>	<p>Finance Sector - National Bank of Georgia</p> <p>Based on the Article of 478 of Organic Law of Georgia No 1676 on the National Bank of Georgia</p> <p>The National Bank ensures compliance with the requirements established by the Law of Georgia on Competition in the field provided for by the Organic Law of Georgia on the National Bank of Georgia. According to this Law and the Law of Georgia on Competition, the National Bank shall consider a complaint/statement on a possible violation of competition and a notification on concentration by a representative of the financial sector (except for an accountable enterprise), a lending entity or a credit information bureau. The National Bank is guided by the Law of Georgia on Competition when considering a complaint/statement on a possible violation of competition and a notice on concentration, unless otherwise provided for by the Organic Law of Georgia on the National Bank of Georgia. In case of making a decision on violation of competition, the National Bank will charge the violator with the monetary fine provided by the Law of Georgia on Competition. The National Bank is authorized to apply other sanctions and/or supervisory measures to the competition violator along with a monetary fine.</p> <p>Telecommunications Sector - Communication Commission of Georgia</p> <p>Based on Law of Georgia on Electronic Communications, the Communication Commission of Georgia:</p> <ul style="list-style-type: none"> - Studies and analyses relevant segments of the service market, identifies authorized persons with significant market power, impose specific obligations under this Law and monitor and supervise their execution for the purposes of ensuring competition (Article 11(c)) - Determines the relevant segments of the service market for the purposes of preliminary regulation according to criteria determining the service types and geographic boundaries of electronic communication services (Article 21(2)) - Conducts an analysis of the competitiveness of the relevant segments of the service market. - Studies the operations (besides those concentrations considered by the Law of Georgia on Competition) a) if operating assets of an authorised person are purchased; b) if two or more persons are combined as a result of a merger and one of them is an authorised person; c) if an ownership interest or shares of an authorised person are acquired and as a result of the acquisition, 5 per cent or more, in total, of the ownership interest or shares of the authorised person is transferred into the ownership of the

	<p>acquiring person and/or interdependent (affiliated) persons (Article 25(1))</p> <p>Energy and Water Supply Sector - the Georgian National Energy and Water Supply Regulatory Commission</p> <p>Based on Law of Georgia on Energy and Water Supply the Georgian National Energy and Water Supply Regulatory Commission:</p> <ul style="list-style-type: none"> - In compliance with the requirements of this Law and the Law of Georgia on Competition, supervises the level and efficiency of the opening of energy markets, as well as competition in energy markets, including any case of violation or restriction of competition (Article 29(i.b)); - Prepares conclusions concerning the competitive effect of a merger or combination of undertakings, and by a subordinate normative act, determines a procedure for the submission of a notification on market concentration to the Commission for its review (Article 29(m.d)). <p><i>[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]</i></p>
<p>Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?</p>	<p>On December 17, 2018 Memorandum of Understanding was signed between the Competition Agency of Georgia and National Bank of Georgia;</p> <p>On November 7, 2017 Memorandum of Understanding was signed between the Competition Agency of Georgia and Georgian National Energy and Water Supply Regulatory;</p> <p>On February 8, 2017 Memorandum of Understanding was signed between the Competition Agency of Georgia and Georgian National Communications Commission</p> <p><i>[Please mention here any provision or interinstitutional agreement that allows the competition authorities to coordinate behavior to effectively enforce competition law]</i></p>
<p>DISAGGREGATED FUNCTIONS—PROSECUTORIAL MODEL</p>	
<p>Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?</p>	<p>No</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>
<p>Are disputes presented for decision to judiciary authorities?</p>	<p>No</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>
<p>Do private rights of action to challenge competition law infringements exist in your jurisdiction</p>	<p>Yes</p> <p>According to Article 14, ORDER №38 of the Chairman of the Georgian National Competition Agency issued on October, 2020, any third person harmed by a competition law breach is entitled to claim damages before a judge under the general tort’s procedure. The harmed person can start the claim damages procedure once the Competition Authority has issued its final decision on the case.</p> <p><i>[If the answer is “yes”, please explain briefly the process and who are the persons entitled to exercise those rights; mention the relevant provisions]</i></p>

* Please fill the next sections for each of the authorities mentioned in the prior sections excluding sector regulators				
GEORGIAN COMPETITION AGENCY				
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.	<i>[Introduce the relevant provisions]</i>
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.	<i>[Introduce the relevant provisions]</i>
		√	The executive has to report on an annual basis to the executive.	Article 7 of Statute of Georgian National Competition Agency (Decree of Georgian Government No. 288 issued on 14 April, 2014) <i>[Introduce the relevant provisions]</i>
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.	Article 7 of Statute of Georgian National Competition Agency (Decree of Georgian Government No. 288 issued on 14 April, 2014) <i>[Introduce the relevant provisions]</i>
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.	<i>[Introduce the relevant provisions]</i>
		X	Its activities are monitored by an independent auditor or by oversight committees.	<i>[Introduce the relevant provisions]</i>
Does the Competition Authority have obligations before the judiciary or independent agencies?	Yes	√	Decisions of the Competition Authority are subject to judicial review.	Based on Article 28 of Law of Georgia on

			<p>Competition, disputes relating to the infringement of this Law shall be considered by the Tbilisi City Court.</p> <p><i>[Aside from the relevant provisions please mention the judicial authority charged with the review.]</i></p>
		X	<p>Decisions of the Competition Authority are subject to review or control of an independent authority different from the judiciary?</p> <p><i>[Aside from the relevant provisions, please mention the authority charged with the review.]</i></p>
		<p>Other obligations/comments:</p> <p><i>[Please introduce any other obligation or comment that you consider relevant.]</i></p> <p><i>[Introduce any comment that you consider relevant regarding the status of accountability of accountability of the competition authority.]</i></p>	
Independence	Please, answer "Yes" or "No"		
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<p>Article 17 of the Law of Georgia on Competition.</p> <ol style="list-style-type: none"> 1. The managing body of the Agency shall be the Board, which shall consist of five members. 2. The Prime Minister of Georgia shall nominate the candidates of members of the Board to the Parliament of Georgia for selection. 3. The Prime Minister of Georgia shall establish a selection commission to select candidates for membership in the Board. 4. The selection commission shall announce a public competition for the selection of the candidates of the Board on the website administered by the Legal Entity under Public Law called Civil Service Bureau. Any interested person shall have the right to participate in the said competition. The time limit for the submission of applications for participation in the said competition shall not be less than 10 days. 5. No later than 20 days after receiving applications, the selection committee shall, from the persons, who meet the qualification requirements for the membership of the Board established by this Law, select double as many candidates for the vacant position of the member of the Board. The selection committee shall be guided by the principles of objectivity and impartiality in the process of selecting candidates for the membership of the Board. 6. The Prime Minister of Georgia shall nominate as many candidates for the membership of the Board selected as a result of a public competition to the Parliament of Georgia, as the vacant positions. 7. If the Parliament of Georgia does not approve a candidate nominated for the vacant position of the member of the Board, the Prime Minister of Georgia shall nominate other candidates selected for the vacant position through a public competition within 30 days. 8. The member of the Board shall be elected and dismissed by the Parliament of Georgia in accordance with the Rules of Procedure of the Parliament of Georgia. 9. The member of the Board is elected for a term of five years. A person may be elected to the Board only twice in a row. 10. If the position of the member of the Board is vacated early, the 	

		<p>Parliament of Georgia shall elect the new member of the Board for a term of five years in accordance with the rules established by this article.</p> <p>11. The candidate of the new member of the Board shall be submitted to the Parliament of Georgia: a) not earlier than 60 calendar days and not later than 40 calendar days before the expiry of the powers of the member of the Board; b) in case of the dismissal of the member of the Board, no later than the 30th calendar day from the day of his/her dismissal.</p> <p>12. A person may be elected as the member of the Board if he/she: a) is a citizen of Georgia; b) has an academic degree in economics, law or business administration; c) has at least 10 years of work experience.</p> <p>13. Within one month after the election of the members of the Board by the Parliament of Georgia, the Board shall elect the Chairperson of the Board from among its members by a majority of votes for the term of the office of this person as a member of the Board. The Chairperson of the Board shall have the right to refuse the status of the Chairperson of the Board by a personal application.</p> <p>14. If the position of the Chairperson of the Board is vacated early, the Board shall elect a new Chairperson of the Board from among its members, in accordance with the rules established by this article, within one month for the term of the office of this person as a member of the Board.</p> <p>15. The termination of the powers of the Chairperson of the Board shall not lead to the termination of the term of the office of the said person as a member of the Board, unless at the same time there are grounds provided for by paragraph 20 of this article.</p> <p>16. A person may be elected as a Chairperson of the Board only twice in a row.</p> <p>17. The Chairperson of the Board shall appoint the Deputy Chairperson of the Board from among the members of the Board.</p> <p>18. After the expiry of the powers of the member of the Board, the powers shall be automatically extended once before he/she or another person is elected as a member of the Board in accordance with the rules established by this article, but not more than 3 months</p> <p>19. After the expiry of the powers of the member of the Board, paragraph 18 of this article shall not apply to a member of the Board if there are at least 3 members left in the Board.</p> <p>20. The grounds for dismissal of a member of the Board shall be: a) the existence of a conflict of interest provided for by paragraph 22 of this article; b) the entry into force of a judgement of conviction against a member of the Board; c) the declaration of missing by a court or death of a member of the Board; d) the loss of citizenship of Georgia by a member of the Board; e) the violation of the requirements established by the Law of Georgia on Conflict of Interest and Corruption in Public Institutions by a member of the Board; f) the non-performance of official duties by a member of the Board for three consecutive months due to unreasonable excuse; g) the resignation of the member of the Board; h) the death of the member of the Board.</p> <p>21. In the cases provided for by sub-paragraphs (a), (e), or (f) of paragraph 20 of this article, the decision on dismissal of a member of the Board shall be made by the Parliament of Georgia by a majority of the total number of members, and in the cases provided for by other sub-paragraphs of the same paragraph, the powers of the member of the Board shall be terminated automatically upon the occurrence of the relevant legal fact.</p> <p>22. The member of the Board may not be at the same time: a) state servant, state political official, political official, public servant; b) the member of the governing body of a legal entity/the member of the governing body and/or a shareholder; c) the member of a political party.</p> <p>28. The Agency shall have an Executive Director, who shall be appointed through an open competition for a term of five years and dismissed by the Prime Minister of Georgia.</p> <p>29. A person may be appointed as the Executive Director of the Agency if he/she: a) is a citizen of Georgia; b) has an academic degree</p>
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		<p>in economics, law or business administration; c) has at least 5 years' experience of working in a managerial position.</p> <p>30. The provisions of paragraphs 20 and 22 of this article shall apply to the Executive Director of the Agency.</p> <p>31. A new public competition shall be held no later than one month before the expiration of the powers of the Executive Director of the Agency. After the expiration of the powers of the Executive Director of the Agency, he/she shall exercise his/her powers till the new Executive Director of the Agency is appointed.</p> <p>32. In the case of early dismissal of the Executive Director of the Agency, his/her powers shall be exercised by a person designated by the Board before the appointment of a new Executive Director of the Agency by the Prime Minister of Georgia.</p> <p><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></p>
Does the executive have powers to decide on specific cases based on public interest?	No	<p><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></p>
Does the executive retain decision-making powers over the Competition Authority?	Yes	<p>Article 10¹ of the Law of Georgia on Competition</p> <p>In order to ensure the advocacy of the competition process, the Agency, based on the decisions of the Government of Georgia, shall assess the decisions and legal acts related to the economic sector, and privatization and investment projects to be implemented, in order to determine their conformity with this Law.</p> <p>Article 12 of the Law of Georgia on Competition</p> <p>2. State aid that does not require the consent of the Agency shall be permissible if:</p> <p>f) state aid is intended to implement an important state project, and if the Government of Georgia has made a decision in this respect.</p> <p>Article 13 of the Law of Georgia on Competition</p> <p>1. The Government of Georgia shall approve by the Ordinance, with the agreement of the Agency, rules for granting state aid provided for by Article 12(3) of this Law.</p> <p>2. On the basis of the rule on the agreement of state aid with the Agency provided for by paragraph 1 of this article, a body providing state aid shall submit to the Agency an application, which shall include the information on the purpose of providing state aid, the form of state aid, amount, and on the receiving undertaking.</p> <p>3. A body providing state aid shall, together with the application provided for by paragraph 2 of this article, substantiate that the state aid to be granted shall not substantially restrict competition.</p> <p>4. On the basis of the application (information) submitted, the Agency shall verify the compliance of the state aid to be provided with the provisions of this Law and shall issue an appropriate conclusion no later than 30 working days. Depending on the size and complexity of the case, this period can be extended up to 3 months. Failure to issue a conclusion by the Agency within the established period shall be considered as consent.</p> <p>5. The Agency shall have the right to request additional information from the body providing state aid and/or the receiving undertaking, which shall be the basis for the suspension of the period provided for by paragraph 4 of this article.</p> <p>6. The conclusion provided for by paragraph 4 of this article shall be submitted by the Agency to the body providing state aid and the Government of Georgia.</p> <p>7. The Government of Georgia shall make a decision on the relevant issue if the negative conclusion of the Agency is</p>

		<p>submitted.</p> <p><i>[Please introduce the relevant provisions.]</i></p>
Is the Competition Authority obliged to publish reasoned decisions to ensure transparency?	Yes	<p>Article 17(2) of the Law of Georgia on Competition.</p> <p>To ensure the transparency of the activities of the Agency its decisions shall be made public.</p> <p><i>[Please introduce the relevant provisions.]</i></p>
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	<p>Article 16(8) of the Law of Georgia on Competition.</p> <p>The Agency shall be financed from the state budget of Georgia and other sources provided for by the legislation of Georgia.</p> <p>Budget assigned in 2023 – 4M GEL.</p> <p><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></p>
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	<p>Article 16(8) of the Law of Georgia on Competition.</p> <p>The Agency shall be financed from [...] the sources provided for by the legislation of Georgia (e.g. Article 11¹(3) of the Law of Georgia on Competition: The fee set by the Agency for the consideration of the notification on concentration shall be GEL 5,000, which shall be paid into the budget of the Agency).</p> <p><i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i></p>

**GOVERNANCE OF THE COMPETITION
AUTHORITY**

Is the Competition Authority governed by a single chairman or by a collegiate body?	<p>Collegiate Body.</p> <p>Article 17¹(1) of the Law of Georgia on Competition.</p> <p>The managing body of the Agency shall be the Board, which shall consist of five members.</p> <p><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></p>
How are the members of the Authority’s directive organ chosen?	<p>Article 17 of the Law of Georgia on Competition.</p> <ol style="list-style-type: none"> 1. The managing body of the Agency shall be the Board, which shall consist of five members. 2. The Prime Minister of Georgia shall nominate the candidates of members of the Board to the Parliament of Georgia for selection. 3. The Prime Minister of Georgia shall establish a selection commission to select candidates for membership in the Board. 4. The selection commission shall announce a public competition for the selection of the candidates of the Board on the website administered by the Legal Entity under Public Law called Civil Service Bureau. Any interested person shall have the right to participate in the said competition. The time limit for the submission of applications for participation in the said competition shall not be less than 10 days. 5. No later than 20 days after receiving applications, the selection committee shall, from the persons, who meet the qualification requirements for the membership of the Board established by this Law, select double as many candidates for the vacant position of the member of the Board. The selection committee shall be guided by the principles of objectivity and impartiality in the process of selecting candidates for the membership of the Board. 6. The Prime Minister of Georgia shall nominate as many candidates for the membership of the Board selected as a result of a public competition to the Parliament of Georgia, as the vacant positions. 7. If the Parliament of Georgia does not approve a candidate nominated for the vacant position of

	<p>the member of the Board, the Prime Minister of Georgia shall nominate other candidates selected for the vacant position through a public competition within 30 days.</p> <p>8. The member of the Board shall be elected and dismissed by the Parliament of Georgia in accordance with the Rules of Procedure of the Parliament of Georgia.</p> <p>9. The member of the Board is elected for a term of five years. A person may be elected to the Board only twice in a row.</p> <p>10. If the position of the member of the Board is vacated early, the Parliament of Georgia shall elect the new member of the Board for a term of five years in accordance with the rules established by this article.</p> <p>11. The candidate of the new member of the Board shall be submitted to the Parliament of Georgia: a) not earlier than 60 calendar days and not later than 40 calendar days before the expiry of the powers of the member of the Board; b) in case of the dismissal of the member of the Board, no later than the 30th calendar day from the day of his/her dismissal.</p> <p>12. A person may be elected as the member of the Board if he/she: a) is a citizen of Georgia; b) has an academic degree in economics, law or business administration; c) has at least 10 years of work experience.</p> <p>13. Within one month after the election of the members of the Board by the Parliament of Georgia, the Board shall elect the Chairperson of the Board from among its members by a majority of votes for the term of the office of this person as a member of the Board. The Chairperson of the Board shall have the right to refuse the status of the Chairperson of the Board by a personal application.</p> <p>14. If the position of the Chairperson of the Board is vacated early, the Board shall elect a new Chairperson of the Board from among its members, in accordance with the rules established by this article, within one month for the term of the office of this person as a member of the Board.</p> <p>15. The termination of the powers of the Chairperson of the Board shall not lead to the termination of the term of the office of the said person as a member of the Board, unless at the same time there are grounds provided for by paragraph 20 of this article.</p> <p>16. A person may be elected as a Chairperson of the Board only twice in a row.</p> <p>17. The Chairperson of the Board shall appoint the Deputy Chairperson of the Board from among the members of the Board.</p> <p>18. After the expiry of the powers of the member of the Board, the powers shall be automatically extended once before he/she or another person is elected as a member of the Board in accordance with the rules established by this article, but not more than 3 months</p> <p>19. After the expiry of the powers of the member of the Board, paragraph 18 of this article shall not apply to a member of the Board if there are at least 3 members left in the Board.</p> <p>20. The grounds for dismissal of a member of the Board shall be: a) the existence of a conflict of interest provided for by paragraph 22 of this article; b) the entry into force of a judgement of conviction against a member of the Board; c) the declaration of missing by a court or death of a member of the Board; d) the loss of citizenship of Georgia by a member of the Board; e) the violation of the requirements established by the Law of Georgia on Conflict of Interest and Corruption in Public Institutions by a member of the Board; f) the non-performance of official duties by a member of the Board for three consecutive months due to unreasonable excuse; g) the resignation of the member of the Board; h) the death of the member of the Board.</p> <p>21. In the cases provided for by sub-paragraphs (a), (e), or (f) of paragraph 20 of this article, the decision on dismissal of a member of the Board shall be made by the Parliament of Georgia by a majority of the total number of members, and in the cases provided for by other sub-paragraphs of the same paragraph, the powers of the member of the Board shall be terminated automatically upon the occurrence of the relevant legal fact.</p> <p>22. The member of the Board may not be at the same time: a) state servant, state political official, political official, public servant; b) the member of the governing body of a legal entity/the member of the governing body and/or a shareholder; c) the member of a political party.</p> <p><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></p>	
Is there a fixed period during which removal is prohibited?	No	<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	<p>Article 17¹(9) of the Law of Georgia on Competition</p> <p>The member of the Board is elected for a term of five years. A person may be elected to the Board only twice in a row.</p> <p><i>[Please, introduce the relevant provisions]</i></p>

<p>Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?</p>	<p>Yes</p>	<p>Article 17¹ of the Law of Georgia on Competition</p> <p>12. A person may be elected as the member of the Board if he/she:</p> <p>a) is a citizen of Georgia;</p> <p>b) has an academic degree in economics, law or business administration;</p> <p>c) has at least 10 years of work experience.</p> <p>29. A person may be appointed as the Executive Director of the Agency if he/she:</p> <p>a) is a citizen of Georgia;</p> <p>b) has an academic degree in economics, law or business administration; c) has at least 5 years' experience of working in a managerial position.</p> <p><i>[If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions].</i></p>
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ARCHITECTURE

<p>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?</p>	<p>Part of a bigger entity</p>	<p><i>[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized.]</i></p>
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POLICY DUTIES

<p>Does the Competition Authority have an exclusive mandate on competition or multiple mandates?</p>	<p>Exclusive</p>	<p style="text-align: center;">√</p> <p><i>[Answer with X/√ as it applies]</i></p>	<p>Concurrent consumer protection mandate.</p>
		<p style="text-align: center;">X</p> <p><i>[Answer with X/√ as it applies]</i></p>	<p>Concurrent IP mandate.</p>
		<p>Other mandates: Public Procurement.</p> <p><i>[Include any other mandates entrusted to the Competition Authority]</i></p>	

PORTFOLIO INSTRUMENTS

Law Enforcement

<p>Does the Competition Authority have powers to investigate cartels?</p>	<p>Yes</p>	<p>Article 7 of the Law of Georgia on Competition</p> <p>1. Any agreement, decision or concerted practice ('the agreement') of undertakings, or association of undertakings that have as their object or effect the prevention, restriction and/or distortion of competition within the relevant market, shall be prohibited, in particular those which: a) directly or indirectly fix purchase or selling prices or any other trading conditions (fixing); b) limit production, markets, technical development, or investment; c) share markets or sources of supply by consumers, location or other characteristics; d) apply dissimilar conditions to equivalent transactions with the particular trade parties, thereby placing them at a non-competitive conditions; e) establishing an additional condition/obligation for a party to enter into a transaction that has no substantive or commercial connection with the subject of the transaction.</p> <p>2. Any agreement prohibited under this article shall be void, unless the exceptions provided for by this Law are applicable.</p>
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		<p>The Georgian National Competition Agency is authorized to impose administrative fines. In case of confirmation of the violation provided for in Articles 7 (Restrictive agreements, decisions and concerted practices) of the Law of Georgia on Competition the party will be fined, the amount of which shall not exceed 5% of its annual turnover during the previous financial year, and in case of non-elimination of the legal basis of the mentioned violation or recurrence of this violation - 10% (Article 30(2) of the ORDER №40 of the Chairman of the Competition Agency issued on 28 October, 2020 on the Approval of the Rules and Procedures of Investigation).</p> <p><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></p>
Does the Competition Authority have powers to investigate unilateral Conduct?	Yes	<p>Article 30(3) of the ORDER №40 of the Chairman of the Competition Agency issued on 28 October, 2020 on the Approval of the Rules and Procedures of Investigation</p> <p>In case of confirmation of the violation provided for in Articles 11³ (Prohibition of the unfair actions of undertakings) of the Law of Georgia on Competition, the undertaking shall be fined, the amount of which shall not exceed 1% of the annual turnover of the undertaking during the previous financial year before the relevant decision, and in case of non-elimination of the legal basis of the mentioned violation or recurrence of this violation – 3%.</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 reviews?	Yes	<p>Article 11¹(1) of Law of Georgia on Competition</p> <p>The Agency shall be notified on the concentration when the value of individual or aggregate annual turnover of an undertaking/undertakings participating in this concentration, during the financial year preceding the concentration, in the territory of Georgia exceeds the limit established by the Procedure for the Submission and Consideration of Notifications of Concentration. The Procedure for the Submission and Consideration of Notification of Concentration shall be approved by a relevant legal act by the Agency.</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>Article 11 of the Law of Georgia on Competition</p> <p>For the registration of the concentration of undertakings that have an obligation to submit a notification as provided for by article 11¹ [of Law of Georgia on Competition], the Agency's opinion on the competitive impact of the expected merger/concentration is required. The Agency's negative opinion shall serve as the grounds for the Legal Entity under Public Law, National Agency of Public Registry to refuse the registration of an undertaking.</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>
Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)?	Yes	Article 11 ¹ of Law of Georgia on Competition If the concentration falls under the regulation of the Law, the parties to the concentration are prohibited from exercising it without notification of the Agency, before the decision of the Agency and/or in the event of a negative decision of the Agency. <i>[Please mention the relevant provisions and add any explanation that you deem necessary]</i>
Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations?	Yes	Pursuant to Article 11 ¹ of Law of Georgia on Competition The Agency is authorized, on the basis of information disseminated through the mass media and/or received from any source, to review the issue of concentration, to determine whether the concentration is subject to notification to the Agency and to take appropriate measures provided by law. <i>[Please mention relevant provisions]</i>
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	Yes	Article 14(13) of the ORDER №39 of the Chairman of the Competition Agency issued on 26 October, 2020 on the Approval of the Rule of Submitting and Reviewing Concentration Notifications. In case of non-submission of the concentration notification to the Agency, in case of exercising concentration despite the negative decision of the Agency and/or before the expiration of the notification period or before the issuance of the decision by the Agency, the person obliged to submit the notification shall be imposed a fine not exceeding 5 percent of its annual turnover during the preceding fiscal year of the Agency's decision. <i>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions]</i>
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	Article 25(6) of the Law of Georgia on Competition. Dawn raids shall be authorized by a judge. <i>[If the answer is "yes", please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions]</i>
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	Article 18(1)(a) of Law of Georgia on Competition. With relation to undertakings the Agency shall be authorised to carry out investigation on the basis of submitted applications or complaints, or on its own initiative. <i>[Please mention the relevant provisions]</i>
Does the Competition Authority have powers to accept leniency applications?	Yes	Article 33 ¹ of the Law of Georgia on Competition 1. A person shall be fully or partially exempted from the imposition of a fine for the violation of this Law if he/she meets all of the following conditions: a) admits, in writing, participation in the agreements provided for by Article 7 (Restrictive agreements, decisions and concerted practices) of this Law; b) provides to the Agency, orally or in writing, important information and evidence known to him/her on the

		<p>agreement provided for by Article 7 (Restrictive agreements, decisions and concerted practices) of this Law, before the Agency receives this information and evidence from other sources;</p> <p>c) during an investigation process, continuously and unrestrictedly cooperates with the Agency.</p> <p>d) terminate its participation in an agreement against the law, unless the Agency considers that the continued participation of the person in the agreement will facilitate the investigation of the case;</p> <p>e) does not destroy documents and evidence relevant to the case;</p> <p>d) does not disclose information about the participation in the leniency program.</p> <p>2. The benefits provided for by this article shall not apply to the sole organisers and/or initiators of the agreements provided for by Article 7 (Restrictive agreements, decisions and concerted practices) of this Law, or to persons who coerced other persons to participate in the agreements.</p> <p>3. The procedure for applying the leniency programme and releasing a person from the exemption of a fine fully or partially for the violation of Article 7 of this Law shall be approved by a legal act of the Agency.</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 seek criminal punishment?	No	<i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i>	
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	<p>Article 18(2)(e) of the Law of Georgia on Competition</p> <p>Georgian National Competition Agency in relation to the state authorities, authorities of the Autonomous Republics, municipal authorities, or other administrative authorities the Agency shall be authorised to submit to the said body binding recommendations for consideration on the existence of legislative barriers and/or administrative barriers to the improvement of the competitive environment in the commodity and service markets of Georgia, and the need for their elimination.</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?	Yes	<p>Article 10 of the of the Law of Georgia on Competition</p> <p>In order to ensure the advocacy of the competition process, the Agency, based on the decisions of the Government of Georgia, shall assess the decisions and legal acts related to the economic sector, and privatization and investment projects to be implemented, in order to determine their conformity with this Law.</p> <p><i>[If the answer is yes, include relevant provisions]</i></p>	
Rulemaking			
Can the Competition Authority issue guidelines?	Binding	<p>√</p> <p><i>[Answer with X/√ as it applies]</i></p>	Guidelines on the calculation of fines.

		√ <i>[Answer with X/√ as it applies]</i>	Guidelines on merger control.
		√ <i>[Answer with X/√ as it applies]</i>	Guidelines on the economic analysis of abuse of dominance cases.
Can the Competition Authority issue binding regulation on competition?	Yes	Article 4(4)(i) of the Statute of Georgian National Competition Agency. The Chairman of Georgian National Competition Agency within the scope of its competence issues normative and individual legal acts (orders, instructions and methodical instructions) in the manner established by the legislation of Georgia. <i>[Please, explain which kind of regulation and mention the relevant provision on which the powers are based]</i>	
Research & Reporting			
Can the Competition Authority carry out market studies?	Yes	Article 16 (1) of Law of Georgia on Competition. The Agency shall be established to implement the competition policy. Article 16(5) of Law of Georgia on Competition Compliance with the decisions, instructions and other legal acts of the Agency shall be binding upon state authorities, authorities of the Autonomous Republics, municipal authorities and other administrative authorities and undertakings. <i>[If the answer is "yes", include relevant provisions]</i>	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	Article 17(2)(b) of the Law of Georgia on Competition. The agency is authorized to monitor the goods and services markets of Georgia with an aim to examine the situation and evaluate the competitive environment. <i>[If the answer is "yes", include relevant provisions]</i>	
DECISION-MAKING FUNCTIONS			
Aggregated Functions			
Does the Competition Authority make the decision to investigate and make guilty findings?	Yes	Article 18 (1) (a) of Law of Georgia on Competition. The Agency shall be authorised to carry out investigation on the basis of submitted applications or complaints, or on its own initiative. <i>[If the answer is "yes", include relevant provisions]</i>	
Does the Competition Authority impose punishments?	Yes	Under of Law of Georgia on Competition, the Authority can impose fines up to 5% of the annual income. Aside from the economic sanction, the Agency can impose structural relief, behavioral conditions. <i>[If the answer is "yes", please mention the different kinds of sanctions]</i>	

		<i>that the agency can impose]</i>
<p>Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?</p>	<p>Yes</p>	<p>Article 22 of Law of Georgia on Competition:</p> <ol style="list-style-type: none"> 1. Applications may be submitted to the Agency by applicants. The applicant shall not be considered as a party to the case. The Agency shall take the notice of the application on the alleged violation of the Law and, in case of reasonable doubt, the Agency may use it to initiate an investigation on its own initiative. 2. Complaints may be submitted to the Agency by a complainant. Together with the complaint, a complainant shall submit evidence to the Agency. Complainants shall be regarded as a party to the case and shall bear the burden of proof <p>Article 23 of Law of Georgia on Competition:</p> <ol style="list-style-type: none"> 1. After receiving a complaint, the Agency shall study the issue of the admissibility of the complaint within the time limit established by the legislation of Georgia. 2. The Agency shall be obliged to send the complaint submitted to it to the respondent undertaking, except for the complaint regarding the alleged violation of Article 7 (Restrictive agreements, decisions and concerted practices) of this Law. The respondent undertaking is entitled to submit its opinions on the complaint to the Agency within the specified time limit. 3. If the respondent undertaking submits its opinion on the complaint to the Agency, the Agency shall make a decision on the investigation of the case on the basis of the information provided by the applicant and the respondent undertaking, within the time limit established by the legislation of Georgia. 4. The Agency shall notify the complainant and the respondent undertaking of the commencement of the investigation on the basis of the complaint, or of the refusal to initiate the investigation on the basis of the complaint. The Agency shall have the right to request the applicant to submit additional information and/or evidence and to determine a time limit for its submission, which shall be the basis for the suspension of the time limit provided for by paragraph 1 of this article. 5. At the stage of the examination of the admissibility of the complaint, the respondent undertaking shall be entitled to offer the Agency to accept contingent liabilities. 6. If the Agency considers that the performance of contingent liabilities accepted by the respondent undertaking no longer raises a reasonable doubt of the violation of the Law, and agrees to the contingent liability offered by the party, the Agency shall refuse to initiate an investigation on the complaint and set a time limit for the respondent party to fulfil its contingent liabilities. 7. If the respondent undertaking does not fulfil the contingent liabilities within the time limit determined by the Agency, the study of the issue of the admissibility of the complaint shall be resumed and the countdown of the time limit provided for by paragraph 1 of this article shall start. 8. The form of the complaint, the procedure for its submission and the procedures and time limits related to the admissibility of the complaint shall be determined, and the relevant act shall be adopted by the Agency. <p>Article 25 of Law of Georgia on Competition:</p> <ol style="list-style-type: none"> 1. After making a decision to initiate a case investigation, the Agency shall start the investigation and make a decision

		<p>not later than 6 months.</p> <p>2. An investigation, depending on its significance and complexity, may be extended up to 18 months by the decision of the Agency.</p> <p>3. The Agency shall notify the complainant of the extension of the time limit of the investigation at least 10 days before the expiry of the time limit established for the (final) decision.</p> <p>4. The Agency may, in the process of investigation, where necessary, request to submit information and documents required for the investigation from an undertaking/party/interested party.</p> <p>5. In the process of the investigation, the Agency shall be entitled to invite the party/interested party for an explanation.</p> <p>6. The Agency shall be entitled to inspect the relevant undertaking onsite on the basis of a court decision.</p> <p>7. The Agency may file a reasoned request with the court to carry out an on-site inspection of the undertaking as specified in paragraph 6 of this article if:</p> <p>a) in the case provided for by paragraph 4 of this article, it is impossible to obtain the information and documents necessary for the investigation;</p> <p>b) there is a danger of destruction and/or concealment of the information related to the case;</p> <p>c) the parties fail to comply with the obligation to provide information and documents;</p> <p>d) visual inspection of tangible assets of an undertaking is required.</p> <p>8. An onsite inspection of an undertaking provided for by paragraph 7 of this article, shall mean:</p> <p>a) having access to documents related to the activities of the undertaking, including financial and economic documents, irrespective of their confidentiality and retention procedures;</p> <p>b) making copies of documents specified in sub-paragraph (a) of this paragraph;</p> <p>c) receiving explanations on the site;</p> <p>d) accessing the place where an undertaking conducts its legal and actual activities.</p> <p>9. If, after the commencement of an investigation, the complainant withdraws the complaint, the investigation shall be terminated, except where there is proven evidence that competition is significantly restricted.</p> <p>10. Before the final decision is made by the Agency, a final meeting shall be held to give the applicant and the party the opportunity to present their positions.</p> <p><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></p>
<p>Can the Competition Authority's decisions be appealed to a court?</p>	<p>Yes</p>	<p>Article 33 of Law of Georgia on Competition.</p> <p>A person has the right to appeal the decision of the Agency in the Tbilisi City Court and the court is authorised to fully review the decision of the Agency, including the amount of the fine.</p> <p><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></p>
<p>Please add commentaries or information that you</p>		

consider relevant and were not covered in any of the previous sections and questions.