

| Azerbaijan | | |
|--|--|---|
| COMPETITION FRAMEWORK | | |
| Competition Law | <p>Law No. 526 “On Antimonopoly Activity” dated March 4, 1993 (most recently amended April 15, 2022).</p> <p>Law No. 1113 “On Protection of Consumer Rights” dated September 19, 1995 (most recently amended February 17, 2023).</p> <p>Law No. 1049 “On Unfair Competition” dated June 2, 1995 (most recently amended February 17, 2023).</p> <p>Law No. 590-IQ “ On Natural Monopolies” dated December 15, 1998 (most recently amended December 18, 2015).</p> | |
| Competition Authority | <p>State Service for Antimonopoly Policy and Protection of Consumers' Rights under the Ministry of Economic Development of the Azerbaijan Republic.</p> <p>The State Service was established to replace the former State Antimonopoly Service and the State Service on Control over the Consumer Market under the Ministry of Economic Development (see the Decree of the President of the Azerbaijan Republic "On Improvement of the activity in the sphere of Antimonopoly Policy and Protection of Consumers' Rights" No 113, dated 24 June 2009).</p> <p>The State Service for Antimonopoly and Consumer Market Control, within the Ministry of Economy, was created in 2018. In 2024, the President of Azerbaijan issued a decree reorganizing the State Service for Antimonopoly and Consumer Market Control of the Ministry of Economy into the State Agency for Antimonopoly and Consumer Market Control, under the supervision of the Presidency of Azerbaijan. The State Agency is the central executive authority exercising competition policy and regulating antitrust, unfair competition, public procurement, and consumer rights issues.</p> <p>Website: https://competition.gov.az/en.</p> | |
| POLICY-MAKING AGENTS | | |
| -DIVERSIFICATION- | | |
| How many agencies are responsible for competition enforcement? | <p>Azerbaijan has one authority with a general mandate to enforce competition law infringements.</p> <p>State Service: was established by Decree of the President “On Improvement of the activity in the sphere of Antimonopoly Policy and Protection of Consumers’ Rights” No. 113 in 2009. The agency is part of the Ministry of Economy. The agency oversees state policy in the areas of antimonopoly, unfair competition, public procurement, advertising, technical regulation, standardization, metrology, conformity assessment, accreditation, quality management, and consumer rights protection (see Decree No. 1017 dated May 12, 2020).</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? | No | |
| Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators? | No | |
| DISAGGREGATED FUNCTIONS—PROSECUTORIAL | | |
| MODEL | | |
| Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases? | No | <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</i> |

| | | |
|---|------|--|
| | | <i>what are their functions.]</i> |
| Are disputes presented for decision to judiciary authorities? | No | <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> |
| Do private rights of action to challenge competition law infringements exist in your jurisdiction | Yes? | Law 1308-IVQ “On Citizen’s Appeals” dated September 30, 2015 (most recently amended February 17, 2023) states that citizens submit appeals (an application or complaint) to officials. Law No. 1113 “On Consumer Rights) states in Article 3 (“Consumer Rights”) that consumers may apply to the competent state bodies and the court for protection of their legal interests. |

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

**STATE SERVICE FOR ANTIMONOPOLY POLICY
AND PROTECTION OF CONSUMERS’ RIGHTS**

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> |
| | | X | The executive has to report on an annual basis to the executive. | 3.0.36 of Decree No. 1017, May 12, 2020 requires the Service to prepare annual reports on public procurement for the Ministry of Economy. 3.0.65 requires the Service to submit reports to the Ministry of Economy on the result of its activities. |
| Does the Competition Authority have obligations before the legislature? | Yes | X | Obligation to publish an annual report on its activities. | 3.0.56 of Decree No. 1017 requires the Service to inform the population of its activities, create a website, and post public information, and ensure this |

| | | | | |
|---|------------------------------|---|---|--|
| | | | | information is updated and 3.0.65 requires the Service to submit a report to the Ministry of Economy on the results of its activities, but these provisions do not specify the frequency (e.g. annual report). |
| | | X | Obligation to stand before parliament and to respond to congressmen on an annual basis. | 3.0.1 of Decree No. 1017 states that the Service should participate in preparation of drafts of legal acts and give opinions and suggestions, however the provision to specify the frequency (annual, etc) of this task. |
| | | 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. | 3.0.10 of Decree No. 1017 requires the Service to appeal to the court if its decisions are not fulfilled. |
| | | X | Decisions of the Competition Authority are subject to review or control of an independent authority different from the judiciary? | <i>[Aside from the relevant provisions, please mention the authority charged with the review.]</i> |
| | | Other obligations/comments: <i>[Please introduce any other obligation or comment that you consider relevant. Introduce any comment that you consider relevant regarding the status of accountability of accountability of the competition authority.]</i> | | |
| Independence | Please, answer "Yes" or "No" | | | |
| Are the criteria for appointment and removal of the head/board members clear and transparent? | No | Section 5 "Organization of Service Activity" of Decree No. 1017 specifies that the President appoints and removes the Chief and deputies, however the exact criteria are not specified. | | |
| Does the executive have powers to decide on specific cases based on public interest? | No | [Please introduce the relevant provisions, and if the answer to the question is "yes", explain in which cases the executive can decide on public interest | | |

| | | |
|--|---|---|
| | | bases.] |
| Does the executive retain decision-making powers over the Competition Authority? | No | |
| Is the Competition Authority obliged to publish reasoned decisions to ensure transparency? | No | [Please introduce the relevant provisions.]3.0.56 of Decree No. 1017 requires the Service to inform the population of its activities, create a website, and post public information, and ensure this information is updated. |
| Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning? | Yes | Section 1.5 of Decree No. 1017 states that the agency is financed from Azerbaijan's budget. [Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved] |
| Can the Competition Authority be financed by its own means (notification fees, fines, etc.)? | No | Article 17 of Law No. 526 “ On Antimonopoly Activity” states that profits obtained by violating the law must be paid to the state budget. Articles 11-13 of Law No. 1049 “On Unfair Competition” state that financial sanctions are paid to the state budget. |
| GOVERNANCE OF THE COMPETITION AUTHORITY | | |
| Is the Competition Authority governed by a single chairman or by a collegiate body? | Single chairman. | |
| How are the members of the Authority's directive organ chosen? | 5.3 and 5.4 of Decree No. 1017 states that the President of Azerbaijan appoints and dismisses both the chairman of the Service as well as the four deputy chiefs under the chairman. 5.5 of Decree No. 1017 states that the Chief, with agreement of the Ministry of Economy, distributes duties among the deputy chiefs and submits a proposal for the structure, staffing, and cost estimates to the Ministry of Economy. The Chairman appoints and dismisses employees (other than the four deputy chiefs which are appointed and dismissed by the President). | |
| Is there a fixed period during which removal is prohibited? | No | [If your answer is “yes”, please introduce the duration of the tenure and the relevant provisions. If the answer is no, please refer if there are specific and restricted grounds under which the members of the Directive body can be removed; mention if they are elected for a term and introduce the relevant provisions] |
| Is the tenure of the heads renewable? | Not specified | [Please introduce the relevant provisions] |
| Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)? | No | 5.5.7 of Decree No. 1017 states that the Chair is responsible for ensuring the professional training of employees, but the law does not state specific minimum qualifications. Law No. 926-IQ “On Civil Service” dated July 21, 2000 (most recently updated May 30, 2023) outlines the general guidelines for civil service employment. |
| ARCHITECTURE | | |
| Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a ministry? | Part of the Ministry of Economy | The Service is part of the Ministry of Economy (see Section 1 of Decree No. 1017). |
| POLICY DUTIES | | |
| Does the Competition Authority have an exclusive mandate on competition or multiple mandates? | Exclusive | √ Concurrent consumer protection mandate. |
| | | √ Concurrent IP mandate. |
| | | Other mandates: [Include any other mandates entrusted to the Competition Authority] |
| PORTFOLIO INSTRUMENTS | | |
| Law Enforcement | | |
| Does the Competition Authority have powers to investigate cartels? | Yes | Article 10 of Law No. 526 prohibits illegal horizontal and vertical agreements which cause or may cause restriction of competition, including cartel deals, which are defined as two or more economic entities competing in the same commodity market in order to exclude other competitors |

| | | |
|--|---------------|---|
| | | from the market and/or to prevent new competitors from entering the market. Under Article 17, parties may be ordered to pay the profit obtained by violating the law to the state budget, stop the violation, restore the original situation, or perform other actions. |
| Does the Competition Authority have powers to investigate unilateral Conduct? | Yes | Part II of Law No. 526 outlines the various forms of prohibited monopolies. Specifically, Article 8 prohibits the illegal activities of entities that hold a dominant position in the market that lead to, or may lead to, restriction of competition. Part III of Law No. 526 outlines the various regulatory remedies available. Under Article 15, if an economic subject occupying a dominant position performs monopolistic activities and those activities lead to considerable restriction of competition, the Service may issue a decision to divide the entity. Under Article 17, economic subjects may be forced to pay illegal profits to the state budget, cease the violation, or take other actions. |
| Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger review? | Yes | Article 13 of Law No. 526 states that the Service exercises control over mergers that result in an entity with a market share exceeding 35%, mergers whose total value of assets in Azerbaijan exceeds an amount equivalent to seventy five thousand times the size of the minimum wage, and liquidation whose total value of assets in Azerbaijan exceed an amount equivalent to fifty thousand times the size of the minimum wage. Economic subjects that meet these thresholds must submit a petition to the Service that includes a copy of the relevant agreement and information on the volume of sales in the relevant market. After receiving the documents, the Service will notify the petitioners on the status of the decision within 15 days. If the Service does not approve the petition, the merger may be considered invalid by the court. |
| Is the notification of merger transactions mandatory? | Yes | Article 13 of Law No. 526 states that the Service exercises control over mergers that result in an entity with a market share exceeding 35%, mergers whose total value of assets in Azerbaijan exceeds an amount equivalent to seventy five thousand times the size of the minimum wage, and liquidation whose total value of assets in Azerbaijan exceed an amount equivalent to fifty thousand times the size of the minimum wage. |
| Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)? | No | Article 13 of Law No. 526 states that if consent is not obtained, the merger may be considered invalid by the court. |
| Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations? | Yes | Article 13 of Law No. 526 states that if consent is not obtained, the merger may be considered invalid by the court. Article 18 of Law No. 526 states that if the parties did not provide the required documents and information specified in Article 13, they may be fined AZN 5,500 (USD \$3,235.29) |
| Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations? | Yes | Article 17 of Law No. 526 states that in addition to payment of fines, consequences of violating the law include stopping the violation, restoring the original situation, changing or breaking the contract, and performing other actions. |
| Does the Competition Authority have powers to conduct dawn raids at premises? | Not specified | <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 | 3.0.6. of Decree No. 1017 states that the Service is responsible for reviewing cases of violation of anti-monopoly legislation and conduct of entrepreneurial activity in unfair ways, detection and elimination of unfair competition cases applied by market subjects, cartel deals of business subjects, restoration of the initial situation in the market, as well as bringing the violators to account in the manner determined by the anti-monopoly legislation. | |
| Does the Competition Authority have powers to accept leniency applications? | No | <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> | |
| Does the Competition Authority have powers to seek criminal punishment? | Yes | Article 18 of Law No. 526 states that persons provided for in that law bear criminal responsibility. Article 14 of Law No. 1049 also states that persons who violate that law bear criminal responsibility. Article 199 of the Criminal Code states that engaging in monopolistic actions shall be punished by a fine of one hundred to five hundred times the minimum wage or correctional work for up to one year or restriction of freedom for up to two years. When monopolistic actions are committed by a group of persons, conspirators are punished by imprisonment for up to two years. | |
| Advocacy | | | |
| Can the Competition Authority issue opinions on draft legislation? | Yes | 3.0.1 of Decree No. 1017 states that the Service should participate in preparation of drafts of legal acts and give opinions and suggestions, | |
| 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> | |
| Rulemaking | | | |
| Can the Competition Authority issue guidelines? | Non-Binding | X | Guidelines on the calculation of fines. |
| | | X | Guidelines on merger control. |
| | | X | Guidelines on the economic analysis of abuse of dominance cases. |
| Can the Competition Authority issue binding regulation on competition? | No | | |
| Research & Reporting | | | |
| Can the Competition Authority carry out market studies? | Yes | 3.0.9 of Decree No. 1017 directs the Service to conduct monitoring on each commodity market in order to prevent monopolization, restriction of competition, and other illegal acts. | |
| Can the Competition Authority report to the legislature on the results of market studies? | Not specified | <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 | 3.0.5 of Decree No. 1017 states that the Service has a duty to investigate the state of competition, determine the dominant position of economic entities, and maintain the state register of economic entities whose share in the commodity market exceeds the limit determined by the antimonopoly legislation. Decision of the Cabinet of Ministers No. 120 dated May 29, 1998 (most recently amended October 1, 2022) states that when signs of violation of antimonopoly legislation is detected, the Chairman created a Commission for | |

| | | |
|---|-----|--|
| | | consideration of a specific case and adopt a decision. |
| Does the Competition Authority impose punishments? | Yes | The Service may impose fines of up to AZN 55 (USD \$32.35) for each delayed day that legal instructions are not followed, but not more than AZN 22,000 (USD \$12,941.18) (see Article 18 of Law No. 526). If parties do not provide the required information they may be fined AZN 5,500 (USD \$3,235.29) (Article 18 of Law No. 526). Article 12 of Law No. 1049 specifies financial sanctions for violation of that law (one times the income obtained from stolen goods for violation of Article 4; 10% of income from stolen goods for violation of Articles 5, 6, 7, 8, 9; up to 10% of total income obtained in the last 3 months for all prohibited activities for failure to fulfill or timely implement instructions from the Service; 5% of total income obtained in the last 3 months for all prohibited activities for intentionally providing incorrect information or not providing information to the Service). |
| Is there a single body that carries out the investigation and the guilty findings within the Competition Authority? | No | Decision of the Cabinet of Ministers No. 120 dated May 29, 1998 (most recently amended October 1, 2022) states that when signs of violation of antimonopoly legislation is detected, the Chairman created a Commission for consideration of a specific case and adopt a decision. The Commission must be composed of no less than three people. Consideration of a case may be delayed due to various reasons, such as needing to retain an expert witness. After the Commission adopts a decision, notice is sent to the parties within 10 days. |
| Can the Competition Authority's decisions be appealed to a court? | Yes | Decisions may be appealed to the Supreme Court. |
| Please add commentaries or information that you consider relevant and were not covered in any of the previous sections and questions. | | |