

## Kyrgyzstan

**[Please introduce here the name of your country]**

### Competition Framework

Competition Law	<p>On Competition, Law No. 116 (July 22, 2011). Amended in 2013, 2015, 2016, 2017, 2019, 2022, and 2023).</p> <p>On Natural Monopolies in the Kyrgyz Republic, Law No. 149 (August 8, 2011). Amended in 2014, 2015, 2017, 2019, and 2022.</p> <p>Regulations on the Antimonopoly Regulatory Service Under the Ministry of Economy and Commerce of the Kyrgyz Republic (Res. No. 619, November 4, 2022).</p> <p>Rules for Reviewing Cases of Violation of the Anti-Monopoly Law of the Kyrgyz Republic (Res. No. 365, June 2, 2012). Amended in 2015.</p> <p>Rules on Control of Economic Concentration (Res. No. 617, November 4, 2022).</p> <p>Procedure for handling cases of violation of Antimonopoly Laws in the Field of Unfair Competition (Res. No. 362, June 2, 2012). Amended in 2016, and 2022.</p> <p>Procedure for Creating and Maintaining the State Registry of Business Subjects Dominant in the Commodity Market of the Kyrgyz Republic (Res. No. 301, May 20, 2015). Amended in 2019.</p> <p>Procedure for Analyzing the State of Competition in the Commodity Market of the Kyrgyz Republic. Decree No. 461 (July 7, 2015).</p> <p>Procedure for Conducting Economic-Statistical Monitoring of Business Entities Included in the State Register of Business Entities that Occupy a Dominant Position in the Commodity Markets of the Kyrgyz Republic. Res. No. 404 (August 7, 2019). Amended in 2020.</p> <p>Procedure for Determination of Monopoly High (Low) Price. Res. No. 529. (September 27, 2022).</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>Antimonopoly Regulatory Service (ARS), Established November 2022 as successor to State Agency for Antimonopoly Regulation by the Regulations on the Antimonopoly Regulatory Service Under the Ministry of Economy and Commerce of the Kyrgyz Republic (Res. Of the Cabinet of Ministers No. 619, November 4, 2022). Its predecessor was established in 2003.</p> <p><a href="https://www.antimonopolia.kg">https://www.antimonopolia.kg</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-

How many agencies are responsible for competition enforcement?	<p>One, the ARS is the sole enforcer of competition enforcement. However, the National Bank of the Kyrgyz Republic is responsible for antimonopoly regulation within the banking services sector. The ARS is solely empowered to impose administrative liability which is primarily limited to administrative orders. The ARS can submit materials to state prosecutorial services for sanctions such as fines where applicable. (Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 §13(4)).</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>
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Do sector regulators have a competition policy enforcement mandate?	Yes. The National Bank of the Kyrgyz Republic is responsible for antimonopoly regulation in the banking services sector.  <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>
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	No.  <i>[Please mention here any provision or interinstitutional agreement that allows the competition authorities to coordinate behavior to effectively enforce competition law]</i>

### 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>[Answer: Yes or No]</i>	<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>
Are disputes presented for decision to judiciary authorities?	No <i>[Answer: Yes or No]</i>	<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 <i>[Answer: Yes or No]</i>	The law on Competition allows persons or business entities harmed by the anticompetitive acts of other firms or state bodies to seek remedy through civil litigation. On Competition, Law No. 116 Art. 16 (July 22, 2011).  <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>

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

### Antimonopoly Regulatory Service

**Монополияга каршы жөнгө салуу кызматы  
(ARS)**

### 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	√	Obligations to report to the executive on on-going investigations upon request.	Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 28  <i>[Introduce the relevant provisions]</i>
			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	On Competition, Law

			basis to the executive.	No. 116 Art. 4 § 6 (July 22, 2011).  <i>[Introduce the relevant provisions]</i>
Does the Competition Authority have obligations before the legislature?	No	X	Obligation to publish an annual report on its activities.	<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.	On Competition, Law No. 116 Art. 20 (July 22, 2011).  <i>[Aside from the relevant provisions please mention the judicial authority charged with the review]</i>
		√	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?	Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 §§ 25.  <i>[Aside from the relevant provisions, please mention the authority charged with the review]</i>
		<p><b>Other obligations/comments:</b> Please introduce any other obligation or comment that you consider relevant.</p> <p>Within the ARS exists a 7-person “collegium” consisting of the ARS chairman, the deputy chairmen, a ministry representative, and the heads of the structural departments of the ARS. This collegium is charged with ethics investigations within the ARS. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 §§ 23-24.</p> <p><i>[Introduce any comment that you consider relevant regarding the status of accountability of the competition authority]</i></p>		
<b>Independence</b>		Please, answer “Yes” or “No”		
Are the criteria for appointment and removal of the head/board members clear and transparent?	No	While the means of appointment of the chair and his deputies is clear, no clear guidelines for qualifications are established by the 2022 regulation creating the ARS. Additionally, no statutory language exists regarding term duration or limits on terms.  <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	No. However, certain vertical agreements may be allowed by application to the Cabinet of Ministers if the total control over a market does not exceed 20%, there is not an anticompetitive effect, and the decision is within the public interest.  <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?	Yes	The Minister of Commerce and Economy retains control over the leadership of the ARS. Additionally, decisions are made “within the powers given to it by the minister.” Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 21(7).		

Is the Competition Authority obliged to publish reasoned decisions to ensure transparency?	Yes	<p>The service is obligated to inform complainants in writing about their decision and the reasons for that decision. Such decisions are published immediately after consideration of the case. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 16, 26.</p> <p>Warnings and orders issued by the ARS must state the grounds for such actions. Rules for Consideration of Cases of Violation of Antimonopoly Laws of the Kyrgyz Republic Res. No. 619 §§ 28 (November 4, 2022).</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>The ARS “is maintained at the expense of the republican budget and other funding sources that do not contradict the [law].” Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 26.</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.)?	No	<p><i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i></p>	
<b>Governance of the Competition Authority</b>			
Is the Competition Authority governed by a single chairman or by a collegiate body?	<p>Collegiate Body. There is no statutory limit on the number of deputies, however the commission is currently comprised of a single chairman and two additional deputies. The authority of the commission is wielded primarily through the chairman.</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>The chairman is appointed and dismissed by the Chairman of the Cabinet of Ministers on the recommendation of the Minister of Economy and Commerce. Deputies are appointed and dismissed by the Chairman of the Cabinet of Ministers on the recommendation of the ARS chairman with the consent of the Minister for Economy and Commerce. Removals can be made by the Chairman of the Cabinet of ministers without any external control. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 §§ 19-20.</p> <p><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></p>		
Is there a fixed period during which removal is prohibited?	No	<p><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></p>	
Is the tenure of the heads renewable?	Yes	<p>No statutory text limits the term duration or renewability of ARS executives.</p> <p><i>[Please, introduce the relevant provisions]</i></p>	
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	No	<p><i>[If your answer is “yes”, please make reference to the qualifications required by law and the relevant provisions]</i></p>	
<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 a Bigger Entity	<p>The ARS is directly supervised by the Ministry of Economy and Commerce of the Kyrgyz Republic. ARS executives are removable without cause by the Chairman of the Council of Ministers. The Minister of Economy and Commerce is himself part of the Kyrgyzstan Council of Ministers and is responsible to the executive.</p> <p><i>[If your answer is “part of a bigger entity”, please explain briefly how the bigger entity is organized]</i></p>	
<b>Policy Duties</b>			
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Multiple	✓	Concurrent consumer protection mandate.
		✗	Concurrent IP mandate.
		<b>Other mandates:</b> Advertisement Control, Weights & Measures	

## Portfolio Instruments

### Law Enforcement

Does the Competition Authority have powers to investigate cartels?	Yes	<p>The Law on Competition specifically bars coordinated anticompetitive activities between competitors and agreements restricting competition between business entities. These actions include agreements on pricing, market allocation, agreements to exclude other firms, production limiting, price discrimination, and agreements over general contract terms. On Competition, Law No. 116 Arts. 4-7 (July 22, 2011).</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>The Law on Competition prohibits monopoly or monopsony behavior in both high price setting and low price setting. On Competition, Law No. 116 Art. 4 (July 22, 2011).</p> <p>Additionally, the law prohibits "malicious competition" which includes copying the goods of other actors, illegal use of trademarks (though the ARS does not itself manage IP in Kyrgyzstan), illegal interference with the business operations of another firm, and limiting production by other firms to produce goods. On Competition, Law No. 116 Arts. 8, 10 (July 22, 2011).</p> <p>The Law on Competition defines a dominant position insofar as for monitoring. Firms in Kyrgyzstan that occupy a dominant position must register with the ARS which maintains a <a href="#">registry</a> of such dominant firms.</p> <p>Additionally, the ARS maintains a <a href="#">registry</a> of recognized natural monopolies which are subject to ARS price setting and additional prohibitions, including work outside of their market sphere, overcharging, imposing conditions to access for their goods, including non-pertinent costs within their sales, international export when domestic needs are not met. Additionally, supply contracts for such firms must be approved by the ARS. About Natural Monopolies in the Kyrgyz Republic, Law No. 149 Art. 7.</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>Beginning in 2022, Kyrgyzstan instituted merger review by which business entities must submit mergers for approval to the corresponding regional office of the ARS. Mergers that are subject to notification are considered by the ARS within 10 days of submission, resulting in either approval or an extension of the review period if the ARS believes their may be a restriction on competition. The ARS may then either consent, modify, or block the merger. In cases where the ARS determines that the merger must be blocked the determination must be made within 30 calendar days of the application. The central office of the ARS may overturn a decision by a regional office regarding a merger review. Rules on Economic Concentration, Res. No. 617 Arts. 3-4 (November 4, 2022).</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>Parties must notify ARS of a merger or acquisition when more than 5% of the total market value of the product comes under the production of a single firm, or where a firm enjoying a dominant position purchases the shares of another firm in the same market. Rules on Economic Concentration, Res. No. 617 § 1 (November 4, 2022).</p> <p>Such firms must submit an application containing the legal entities, details on the consolidating action including the goals of the merger and accounting information, and details on the parties regarding their current and potential market actions following the merger. Rules on Economic Concentration, Res. No. 617 Art. 2 (November 4, 2022).</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)?	No	Rules on Economic Concentration, Res. No. 617 § 5 (November 4, 2022).  <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	The ARS is allowed to "reorganize economic entities to eliminate subjects of natural monopolies" and may instigate investigations on their own grounds. On Competition, Law No. 116, Art. 18(1) (July 22, 2011); Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 12(3).  <i>[Please mention relevant provisions]</i>	
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	Yes	The ARS is allowed to "reorganize economic entities to eliminate subjects of natural monopolies" and separate firms with a dominant position where the firm acts anticompetitively. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 12(3).  <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?	No	<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	"The antimonopoly authority considers cases on violations of the antimonopoly law [on its] own motion, on grounds of mass media notifications and other files available, [and testimony on] violation of this Law." (On Competition, Law No. 116, Art. 18(1) (July 22, 2011)).  <i>[Please, mention the relevant provisions]</i>	
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 accept seek criminal punishment?	No	<i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i>	
<b>Advocacy</b>			
Can the Competition Authority issue opinions on draft legislation?	Yes	The ARS is responsible for and has the right to participating in the development of drafts of regulatory legal acts aimed at improving anti-monopoly laws and prepares conclusions on draft laws and other normative legal acts related to issues within the ARS's competency.  Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 12(1).  <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>	
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	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	<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?	Yes	The ARS is specifically tasked with price monitoring in commodities markets and general analysis of the competitive environment. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 12(1).  <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	The ARS has the authority to issue decisions within the enumerated competency of the service. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 § 21.  <i>[If the answer is "yes", include relevant provisions]</i>
Does the Competition Authority impose punishments?	Yes	The ARS has the authority to impose administrative remedies – primarily through the use of binding orders to cease anticompetitive behavior. The ARS has the authority to issue fines.  <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 ARS exists in a disaggregated format where regional offices adjudicate most issues before the service. The ARS central office then has the ability to overturn decisions.  An ARS regional office initiates an investigation either ex officio or in response to an application by an entity or individual. In the case of applications, the ARS must respond to the application within 10 days of receipt. The ARS will then determine whether or not it has the authority to investigate and whether or not evidence exists of a competition violation. During this period and subsequent periods, the ARS may demand information of commercial (and non-commercial) bodies relating to their market activities. An assessment is made of the market subject to investigation and the ARS either will determine that there is no signs of violation or that it will consider the case. The ARS will provide the complainant (if one exists) with notice of the decision within 3 days of its decision. If a determination is made that anticompetitive behavior occurred, the ARS will inform the offending party of its decision and issue a warning, order or other administrative remedy. The decision may be appealed to the ARS central office or to the judiciary in compliance with Kyrgyz administrative law. Rules for reviewing cases of violation of the anti-monopoly law of the Kyrgyz Republic, Res. No. 365 (June 2, 2012).  This procedure is mirrored in cases of unfair competition, however, these cases are handled by the ARS central office in first instance. Procedure for handling cases of violations of antimonopoly laws in the field of unfair competition, Res. No. 362 (June 2, 2012).  <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	Decisions of the ARS may be contested by appeal. In the case of appeals regarding violation of antimonopoly laws, the appeal must be made within 30 days of delivery of the decision. Regulations on the Antimonopoly Regulatory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic, Res. No. 619, November 4, 2022 §§ 42-43; On Competition, Law No. 116, Art. 20 (July 22, 2011). <i>See also</i> About the Basics of Administrative Work and Administrative Procedures, Law No. 210 Arts. 61-66 (July 31, 2015).

		<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.		