

<b>New Zealand</b> <b>[Please introduce here the name of your country]</b>	
<b>COMPETITION FRAMEWORK</b>	
Competition Law	<p>Commerce Act 1986. It is New Zealand's generic competition law which also provides economic regulation of goods or services in markets with monopoly characteristics.</p> <p>It was amended in 2018 by the Parliament, introducing Part 3A under which we are able to undertake competition studies of a market.</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>Commerce Commission is the regulatory body that administers and enforces the Commerce Act. It was established by Section 8 of the Commerce Act which upholds it is a Crown entity that must act independently when carrying out its duties.</p> <p>Website: <a href="https://comcom.govt.nz/">https://comcom.govt.nz/</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>
<b>POLICY-MAKING AGENTS</b> <b>-DIVERSIFICATION-</b>	
How many agencies are responsible for competition enforcement?	<p>The Commerce Commission is the only entity responsible for enforcing the Commerce Act.</p> <p>As an independent entity, the Commission is an impartial promoter and enforcer of the law.</p> <p>The duties of the Commerce Commission include investigation powers and enforcement.</p> <p>Enforcement may include prosecution, which can be subject to pecuniary penalties.</p> <p>The Commission can also authorize or grant clearance to complete a merger.</p> <p><i>[Please mention how many authorities have a general mandate to enforce competition in your jurisdiction. Include a brief reference on their duties e.g.: if they impose criminal, civil or administrative liability. The purpose is that readers can quickly understand, which are the agencies charged with competition enforcement in the jurisdiction, the difference between them, and if they have concurrent, overlapping, or exclusionary authority. Include the relevant provisions on which their powers are based. Exclude in this point sector regulators or enforcers]</i></p>
Do sector regulators have a competition policy enforcement mandate?	<p>The Commerce Commission and the Ministry of Business, Innovation and Employment (MBIE) are government agencies that regulate competition and business practices in New Zealand. While they operate somewhat independently, they are ultimately accountable to the Minister of Commerce and Consumer Affairs.</p> <p>In specific sectors such as telecommunications and dairy, the Commerce Commission has both enforcement and regulatory control roles (e.g. the Telecommunications Act and DIRA).</p> <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>
Have the Competition Authority and other	<p>Several Memorandums of Understanding (MOUs) exist between the</p>

<p>agencies signed protocols or memoranda of understanding with sector regulators?</p>	<p>Commission and other organizations like the Electricity Authority, Gas Industry Company, Financial Markets Authority, and Department of Internal Affairs.</p> <p>These MOUs outline how the entities will collaborate, particularly regarding competition enforcement and economic regulation within their statutory frameworks.</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>
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**DISAGGREGATED FUNCTIONS—  
PROSECUTORIAL MODEL**

<p>Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?</p>	<p><i>[Answer: Yes or No]</i></p> <p style="text-align: center;">NO</p>	<p>The Commission uses enforcement criteria to assist it in its discretionary activities when making decisions on whether to open an investigation, and what enforcement action it will take at the end of an investigation.</p> <p>The enforcement power of the Commerce Commission may include prosecution and pecuniary penalties imposed by the Courts in cases where the Commission finds the merger substantially lessens competition in a market.</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>
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<p>Are disputes presented for decision to judiciary authorities?</p>	<p><i>[Answer: Yes or No]</i></p> <p style="text-align: center;">No</p>	<p>Competition law disputes in New Zealand aren't directly decided by judicial authorities in the first instance. The Commerce Commission as a regulatory body is responsible for administering and enforcing the Commerce Act.</p> <p>The Commerce Commission investigates potential breaches of the Act and can take enforcement actions, which may involve issuing warnings, accepting enforceable undertakings from businesses, or applying to the courts for penalties. However, the Commission itself has the power to make decisions on competition matters.</p> <p>If a business or individual disagrees with a decision made by the Commerce Commission, they can appeal to the courts. So, the courts do play a role in the overall process, but it's an appeals process rather than the primary way disputes are decided.</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>
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<p>Do private rights of action to challenge competition law infringements exist in your jurisdiction</p>	<p><i>[Answer: Yes or No]</i></p> <p style="text-align: center;">yes</p>	<p>Private parties may also take actions for damages and seek injunctions for contravention of Part II of the Act (restrictive trade practices).</p> <p>According to section 81 of the Act, the court may, on the application of the Commission or any other person, grant an injunction restraining a person from engaging in conduct that constitutes or would constitute restrictive trade practices</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>
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**\* Please fill the next sections for each of the authorities mentioned in the prior sections excluding sector regulators**

**COMMERCE COMMISSION**

**STATUS OF THE COMPETITION AUTHORITY**

<b>Accountability</b>	Please, answer “Yes” in the boxes of this line if any of the duties on the right column apply to the authority, and “No” if they do not.	Answer with X/√ as it applies		Please, in the boxes of this line mention the relevant provisions in which the obligations are based.
Does the Competition Authority have obligations before the executive?	Yes	X	Obligations to report to the executive on on-going investigations upon request.	According to the Competition and Consumer Investigation Guideline, The Commerce Commission is not subject to any direction from the Government when carrying out their enforcement activities.  <i>[Introduce the relevant provisions]</i>
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.	Politicians cannot directly overrule or disregard the Commission's decisions.  The Crown Entities Act 2004 (section 7 and part 3 of Schedule 1) establishes the Commission as an independent body, ensuring their enforcement actions are based solely on the law.  <i>[Introduce the relevant provisions]</i>
		√	The executive has to report on an annual basis to the executive.	The Commerce Commission publishes Briefings to Incoming Ministers (BIMs) following a general election.  <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.	The Commission outlines its performance expectations in an annual Statement of Performance Expectations (SPE) agreed upon with the Minister of Commerce and Consumer Affairs and the Minister for Communications.  <i>[Introduce the relevant provisions]</i>
		√	Obligation to stand before parliament and to respond to congressmen on an annual basis.	The Annual Report of the Commerce Commission on competition matters is presented to the House of Representatives pursuant to section 150(3) of the Crown Entities Act 2004.  <i>[Introduce the relevant provisions]</i>
		√	Its activities are monitored by an independent auditor or by oversight committees.	The Commission is subject to an annual audit by the Office of the Auditor-General and an annual financial review before the relevant Parliamentary Select Committee.  <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.	Decisions of the Commerce Commission in New Zealand can be subject to judicial review. This means that a court can be asked to review the Commission's decision to ensure it acted lawfully and within its

				<p>powers.</p> <p>According to section 71 (1e) of the Commerce Act, the High Court of New Zealand must hear and determine appeals against determinations of the Commission.</p> <p><i>[Aside from the relevant provisions please mention the judicial authority charged with the review]</i></p>
		√	<p>Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?</p>	<p>The Ministry of Business, Innovation and Employment (MBIE) is responsible for some operational policy matters related to competition institutions, including monitoring the Commerce Commission</p> <p><i>[Aside from the relevant provisions, please mention the authority charged with the review]</i></p>
<p><i>[Other obligations/ comments: Please introduce any other obligation or comment that you consider relevant]</i></p> <p>The commission is primarily accountable to the Minister of Commerce and Consumer Affairs and the Minister for the Digital Economy and Communications for our performance.</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			<p>The removal process for New Zealand's Commerce Commission board members involves consulting the Attorney-General before dismissal. According to Section 13 of the Act which refers to section 39 of the Crown Entities Act (2004), members of the Commission may be removed on advice from the responsible Minister after consulting the Attorney-General, for misconduct, poor performance, neglect of duty, or violating board or member duties.</p> <p>On the other hand, the appointment process has no clear criteria that establishes what the Ministry's recommendation is based on.</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?	Yes			<p>The Commerce Act recognises that, in some circumstances, an anticompetitive transaction may lead to sufficient public benefits that would outweigh the competitive harm which is why The Commission can authorize an anticompetitive transaction (a merger or a business agreement) where it is satisfied that it will likely benefit New Zealand. If a transaction is declined on the basis that it is likely to create a substantial lessening of competition, the merging firms can apply for an authorisation on public benefit grounds.</p> <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?	No			<p>The Commerce Commission is an independent Crown entity, established under the Crown Entities Act 2004.</p>
Is the Competition Authority obliged to publish reasoned decisions to ensure transparency?	No			<p>According to the Competition and Consumer Investigation Guidelines, generally all investigation outcomes are able to be made public shortly after completion of the investigation. There is no provision that states mandatory publishing.</p>

		<p>Despite this, the Commission does have an obligation of transparency regarding information gathering. consequently, the Commission`s transparency statement explains how the Commission gathers information for these purposes under the Commerce Act 1986.</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 Commerce Commission derives the majority of its revenue from the Crown. This revenue comes from a combination of general taxes levied on the public and industry-specific levies.</p> <p>The Competition work is funded through the multi-category appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation – Enforcement of Competition Regulation.</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>According to the Commission's Annual Report of 2023, other sources of revenue include interest on cash held, court cost awards from litigation, and application fees paid by businesses seeking clearances and other determinations.</p> <p>According to this report, the Vote Business, Science and Innovation is in charge for the revenue of the Competition Studies performed by the Commerce Commission</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?	Collegiate Body	<p>New Zealand's competition authority, the Commerce Commission (the Commission), governed by a Board of Commissioners.</p> <p>Currently the Board's Deputy is Dr John Small and the Deputy Chair is Anne Callinan. There are 11 different commissioners including sector commissioners and associate commissioners.</p> <p>The board also counts with a leadership teams which includes a chief executive and several general managers.</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 Commerce Commission has a board of directors with 4 to 8 members. At least 3 members are appointed by the Governor-General, and one of them must be a lawyer with at least 5 years of experience. Another member is appointed specifically for telecommunications matters, and another for grocery industry competition. The Governor-General appoints these members based on recommendations from a Minister. The Minister considers a candidate's knowledge and experience in relevant fields law, economics, or consumer affairs when making a recommendation. For lawyer positions, the Minister also consults with the Attorney-General.</p> <p>Commissioners are appointed by the governor general on the recommendation of the relevant government minister. Associate commissioners are appointed directly by the relevant government minister</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>The Crown Entities Act 2004 (Section 39) empowers the Governor-General to dismiss any commission member they previously appointed. This dismissal requires "just cause" and must be advised by the relevant minister who has consulted with the Attorney-General.</p> <p>The Act grants the Minister similar removal authority for associate members. Just like the Governor-General's power, the Minister can remove an associate member for "just cause" following the same procedures outlined in Section 39 of the Crown Entities Act 2004.</p> <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</i></p>

		<i>provisions]</i>
Is the tenure of the heads renewable?	Yes	The chairperson's term of office is subject to section 32(1)(b) of the Crown Entities Act 2004, which provides that the term of office of members (which includes chairpersons) of independent Crown Entities shall be 'five years or any shorter period stated in the notice of appointment'. The Crown Entities Act 2004 also provides that members may be reappointed.  <i>[Please, introduce the relevant provisions]</i>
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	According to Part 1, Section 9 of The Commerce Act (1986), at least one of the members of the Commission must be a barrister (lawyer) with at least 5 years of experience.  <i>[If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions]</i>

**ARCHITECTURE A**

Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a ministry?	Stand-alone	The Commerce Commission in New Zealand is an independent Crown entity that is made up of eight branches: Competition, Credit, Fair Trading, Infrastructure Regulation, Legal Services, Market Regulation, Organisation Performance and Strategy, Governance and Engagement. It is governed by a Board of Commissioners and has around 400 staff across their office in Wellington and their office in Auckland.  <i>[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized]</i>
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**POLICY DUTIES**

Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Exclusive	✓	Concurrent consumer protection mandate.
		<i>[Answer with X/ ✓ as it applies]</i>	
		✓	Concurrent IP mandate.  New Zealand's intellectual property rights legislation includes: - The Copyright Act 1994 - The Patents Act 2013 - The Trade Marks Act 2002, which protects signs that distinguish the goods or services of one person from those of another  The Commerce Act contains provisions regarding IP and competition law. These sections either exempt certain forms of conduct relating to IP from being subject to competition law, or guide how such conduct is treated under the Act. - Section 45 - Section 36(3) - Section 7(2) and 7(3).
		<i>[Other mandates: Include any other mandates entrusted to the Competition Authority]</i>  The Commerce Commission enforces different mandates not only the Commerce Act: <ul style="list-style-type: none"> <li>○ Fair Trading Act 1986</li> <li>○ Commerce Act 1986</li> <li>○ Credit Contracts and Consumer Finance Act 2003</li> <li>○ Telecommunications Act 2001</li> <li>○ Dairy Industry Restructuring Act 2001</li> </ul>	

**PORTFOLIO  
INSTRUMENTS**

**Law Enforcement**

<p>Does the Competition Authority have powers to investigate cartels?</p>	<p style="text-align: center;">Yes</p>	<p>The Commerce Act empowers the Commerce Commission to fight cartels through a combination of legal prohibitions and investigative tools.</p> <p>Section 30 directly prohibits agreements that harm competition; this section prohibits any person entering into a contract or arrangement, or arriving at an understanding, that contains a cartel provision. restricting output or allocating markets.</p> <p>The Act also grants the Commission broad investigatory powers to gather evidence of cartel activity, including searching premises, demanding documents, and questioning individuals.</p> <p>Additionally, under the Commerce Act, businesses and individuals can face large fines if they have been part of a cartel or attempted to be part of a cartel. <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>
<p>Does the Competition Authority have powers to investigate unilateral Conduct?</p>	<p style="text-align: center;">Yes</p>	<p>New Zealand's Commerce Act prohibits anti-competitive actions by companies with significant market power.</p> <p>Section 36 of the Act outlines this rule, enforced by the Commerce Commission or through lawsuits by harmed parties.</p> <p>It is one of New Zealand's two main tools against such conduct, alongside restrictions on resale price maintenance.</p> <p>There are three main requirements for a firm's conduct to be considered illegal under this prohibition:</p> <p>Market muscle: The firm must hold a significant position in the market, giving it substantial market power. Without this dominance, the firm's actions are unlikely to be harmful. This acts as a shield for smaller players.</p> <p>Exploiting the advantage: The firm must leverage its market power to its benefit. Simply having a strong market position isn't enough.</p> <p>Anti-competitive intent (or effect): The firm's actions must be aimed at hindering competition, not just exercising its market power (like setting higher prices). While the focus is on intent, the law allows authorities to infer intent based on the actual effects of the firm's conduct.</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>
<p>Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger review?</p>	<p style="text-align: center;">Yes</p>	<p>The Commission can investigate a completed merger that has not received clearance or authorisation, and take prosecution action if they consider the merger substantially lessens competition in a market.</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>
Is the notification of merger transactions mandatory?	No	The Act enables businesses undertaking such a transaction to voluntarily seek clearance or authorisation from us to complete the merger.  <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	There is no standstill obligation under the New Zealand mergers regime. Businesses can choose to proceed to complete an acquisition at any stage. (DAF/COMP/WD(2018)144)  <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?	No	The Commission tests key hypotheses and predictions. It does not undertake full ex-post evaluations of individual decisions, but rather examines whether anticipated market developments that were key to a number of its decisions did take place as predicted, or not.  <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 Commission reviews past merger decisions to see if their predictions about how the market would develop and the merged entity would behave turned out to be accurate. This helps them improve future decisions and merger review processes. It's important to note that these reviews aren't about assigning blame to past decisions, since predicting the future is inherently difficult.  The Commerce Commission can address competition concerns arising from mergers even after they've been completed. While mergers are usually assessed in advance, the Commission has the power to conduct reviews afterwards. If such an investigation reveals a merger has significantly reduced competition, the Commission can take action. This doesn't necessarily mean penalties for failing to notify beforehand, but they can pursue remedies through the courts. These remedies can be forceful, including forcing the merged entities to divest assets or imposing financial penalties.  According to the Mergers-and-acquisitions-Guidelines, if the the High Court considers that a merger lessens competition, it can order various remedies  The main penalties and remedies available under the Act include:  Awards of damages;  Injunctions (including interim injunctions) restraining businesses and individuals from conduct that may breach the Act;  Ordering a person or company to dispose of specified assets or shares;  Pecuniary penalties of up to \$10 million on companies and \$500,000 on an individual, where the Commission has

		<p>brought a case; and</p> <p>Ordering a variety of other remedies, including varying contracts that breach the Act.</p> <p><i>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions]</i></p>
Does the Competition Authority have powers to conduct dawn raids at premises?	No	<p>New Zealand's Commerce Commission's powers to enter and search premises are not explicitly addressed as "dawn raids" in the Commerce Act. Despite this, The Commission has the power to search premises and other places (including homes) to obtain information for investigative purposes.</p> <p>According to section 98A of the Act, The Commission can apply for a search warrant which must be obtained by an issuing officer (judge).</p> <p>The Commission must only apply for the search warrant when they are unable to obtain in a less intrusive way specific evidence required for an investigation voluntary request or compulsory notice)</p> <p>The Commission has limited powers to conduct searches without a warrant.</p> <p><i>[If the answer is "yes", please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions]</i></p>
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<p>The Commerce Commission has the authority to initiate investigations on its own will.</p> <p>There is no specific mention of ex officio investigations in the Commerce Act 1986 itself, but the Commission's broad investigative powers are well-established.</p> <p><i>[Please, mention the relevant provisions]</i></p>
Does the Competition Authority have powers to accept leniency applications?	Yes	<p>The Commerce Commission implements a Leniency Policy concerning Cartel Conduct, offering immunity to the first individual who discloses involvement in a cartel to the Commission.</p> <p>Even if the Commission is already aware of the cartel, applicants can still seek immunity if there isn't enough evidence for legal action.</p> <p>The Leniency Policy incorporates a marker system, allowing applicants to maintain their immunity status while gathering necessary evidence.</p> <p><i>[If the answer is "yes", please mention if there is any limitation for the applicants, what are the benefits, and mention the relevant provisions. Include any commentary that you consider relevant about the leniency program]</i></p>
Does the Competition Authority have powers to accept seek criminal punishment?	No	<p>The Commission may also apply to the Court for a civil pecuniary penalty. If the Court finds an individual or firm has breached the Commerce Act significant penalties (Section 80 of the Act)</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i></p>
<b>Advocacy</b>		
Can the Competition Authority issue opinions on draft legislation?	Yes	<p>The Commerce Commission does not provide policy advice but the Commission submits on policy reviews that have an</p>

		<p>impact on competition law and enforcement.</p> <p><i>[if the answer is yes, please specify if there is any kind of limitation to the agency's authority to issue opinions, include relevant provisions]</i></p>	
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No	<p>It does not provide policy advice but the Commission submits on policy reviews that have an impact on competition law and enforcement</p> <p><i>[if the answer is yes, include relevant provisions]</i></p>	
<b>Rulemaking</b>			
Can the Competition Authority issue guidelines?	Yes	X	<i>[Guidelines on the calculation of fines]</i>
		<i>[Answer with X/ ✓ as it applies]</i>	
		✓	<i>[Guidelines on merger control]</i> <a href="#">Mergers and acquisitions guidelines</a>
		<i>[Answer with X/ ✓ as it applies]</i>	
		X	<i>[Guidelines on the economic analysis of abuse of dominance cases]</i>
		<i>[Answer with X/ ✓ as it applies]</i>	
Can the Competition Authority issue binding regulation on competition?	No	<p>While the Commission can't directly enact regulations, they have the power to conduct market studies and make recommendations to the government on how to improve competition in specific sectors. These recommendations can influence future legislation or policy changes but they do not issue binding regulation on competition.</p> <p><i>[Please, explain which kind of regulation and mention the relevant provision on which the powers are based]</i></p>	
<b>Research &amp; Reporting</b>			
Can the Competition Authority carry out market studies?	Yes	<p>The Commerce Amendment Act 2018 amended the Commerce Act 1986 (the Commerce Act) to give the Commerce Commission the ability to undertake market studies to determine whether there are any factors that may be impeding competition in a market.</p> <p>According to section 51 of the Commerce Act, The Minister may, by notice in the <i>Gazette</i>, require the Commission to carry out a competition study if the Minister considers it to be in the public interest to do so.</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	<p>According to Section 51B of the Commerce Act The Commission must prepare a competition report that records its findings from the competition study and may make recommendations in the report but it is not required to do so.</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>	
<b>DECISION-MAKING FUNCTIONS</b>			
<b>Aggregated Functions</b>			
Does the Competition Authority make the decision to investigate and make guilty findings?	No	<p>The Commerce Commission Competition and Consumer Investigation Guidelines outline the process for how the Commission decides which matters to investigate.</p>	

		<p>There are four main stages:</p> <ol style="list-style-type: none"> <li>1. Screening and prioritization: The Commission identifies potential investigations through complaints, referrals, media reports, and their own research. They then assess whether there's a reasonable basis to suspect a law breach and if it meets their enforcement criteria and priorities.</li> <li>2. Preliminary information gathering (optional): In some cases, the Commission may need more information before deciding to open a full investigation. This might involve contacting relevant parties or gathering additional evidence.</li> <li>3. Investigation: If the Commission decides to investigate, they will follow a formal process that includes gathering evidence, interviewing witnesses, and analyzing information.</li> <li>4. The Commerce Commission determines who makes decisions throughout the investigation process based on the importance and difficulty of the issue.</li> </ol> <p>Before an investigation: Staff (including managers) typically decide if a potential case moves forward from initial screening to a full investigation.</p> <p>During an investigation: There are various decision points, such as starting, stopping, or choosing an enforcement response. Decisions about the investigation's direction and focus are also made during this stage.</p> <p>After an investigation: The investigation team presents its findings to the relevant decision-maker, including key facts, evidence summaries, and potential legal/economic issues. They also recommend if a law breach likely occurred and the most suitable enforcement response.</p> <p>The decision-maker might request further investigation, which could involve contacting the investigated party.</p> <p>High-level enforcement actions (court, settlements, undertakings) are decided by a Commission Division.</p> <p>Lower-level enforcements (warnings, notices, advice letters) are usually decided by authorized staff (managers), though a Division can make these decisions as well</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>
Does the Competition Authority impose punishments?	No	<p>Only the High Court of New Zealand can impose penalties.</p> <p>The Commission investigates potential breaches and gathers evidence and based on the investigation, they recommend the most suitable enforcement response.</p> <p>In some cases, the Commission might pursue solutions like enforceable undertakings (where the company agrees to change its behavior) or settlements.</p> <p>Under section 80 of the Act, the court may order a person or a firm to pay to the Crown a pecuniary penalty for contravention of the act</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions 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?	No	<p>The Commerce Commission determines who makes decisions throughout the investigation process based on the</p>

		<p>importance and difficulty of the issue.</p> <p>The Commission investigates potential breaches and gathers evidence.</p> <p>Based on the investigation, they recommend the most suitable enforcement response.</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>Section 91 of the Commerce Act establishes that there is a right of appeal to the High Court against any determination of the Commerce Commission under the Act.</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 consider relevant and were not covered in any of the previous sections and questions.</p>		