

Thailand		
[Please introduce here the name of your country]		
COMPETITION FRAMEWORK		
Competition Law	<p>Trade Competition Act, B.E. 2560. Initially enacted in 1999 and amended in 2017.</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>Trade and Competition Commission of Thailand (TCCT). Established in 2017 by amendment to the Trade Competition Act as the successor to the Department of Internal Trade.</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 TCCT. The TCCT has the authority to impose administrative remedies as well as refer cases to the District Attorney for civil or criminal proceedings.</p> <p><i>[Please mention how many authorities have a general mandate to enforce competition in your jurisdiction. Include a brief reference on their duties e.g.: if they impose criminal, civil or administrative liability. The purpose is that readers can quickly understand, which are the agencies charged with competition enforcement in the jurisdiction, the difference between them, and if they have concurrent, overlapping, or exclusionary authority. Include the relevant provisions on which their powers are based. Exclude in this point sector regulators or enforcers]</i></p>
Do sector regulators have a competition policy enforcement mandate?		<p>No</p> <p><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 agencies signed protocols or memoranda of understanding with sector regulators?		<p>No</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>
DISAGGREGATED FUNCTIONS—		
PROSECUTORIAL MODEL		
Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?	<p>Yes</p> <p>Answer: Yes or No</p>	<p>The decision to investigate is the sole prerogative of the TCCT and final rulings insofar as administrative remedies are also made by the Commission. However, final rulings for criminal matters are made by justices of the intellectual property and international courts. See Trade Competition Act, § 26.</p> <p><i>[If the answer is yes, please explain briefly the enforcement process, and include the relevant provisions. The purpose of this question is to understand the enforcement model of the jurisdiction and establish how many independent authorities are involved in the enforcement process and what are their functions]</i></p>

Are disputes presented for decision to judiciary authorities?	Yes <i>[Answer: Yes or No]</i>	The TCCT may unilaterally impose administrative sanctions for violations. However, criminal proceedings are carried out by the district attorney in front of the intellectual property and international courts. See Trade Competition Act, § 26. <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>	A person receiving damages due to a violation of the anticompetitive conduct passages has a right to file a lawsuit for damage from the violator. In filing such a lawsuit, the Consumer Protection Commission has a right to file a lawsuit on behalf of a class of consumers. The statute of limitations is 1 year after knowledge (or should-be knowledge) of the cause of the damage. Trade Competition Act, §§ 69-70. <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**

**TRADE COMPETITION COMMISSION OF
THAILAND
(TCCT)**

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.	Trade Competition Act, § 29(13). <i>[Introduce the relevant provisions]</i>
Does the Competition Authority have obligations before the legislature?	Yes	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>
		√	Its activities are monitored by an independent auditor or by oversight committees.	Trade Competition Act, § 49. <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.	The Administrative Law Court has authority to review appeals regarding administrative orders made by TCCT. Trade Competition Act §§ 52, 60, 62. <i>[Aside from the relevant provisions please mention the judicial authority charged with the review]</i>

		X	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?	Aside from the relevant provisions, please mention the authority charged with the review.
		<p>Other obligations/comments: Please introduce any other obligation or comment that you consider relevant.</p> <p>While there is an appeals process to the Administrative Law Court set out for challenging orders to cease activity, no appeals process exists for challenging administrative fines. If a person declines to pay, however, the administrative court will review the fine to see whether it is proper.</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	<i>[Please introduce the relevant provisions, and if the answer to this question is "no", explain briefly why in your opinion the criteria are not clear or transparent]</i>		
Does the executive have powers to decide on specific cases based on public interest?	No	<i>[Please introduce the relevant provisions, and if the answer to the question is "yes", explain in which cases the executive can decide on public interest bases]</i>		
Does the executive retain decision-making powers over the Competition Authority?	No			
Is the Competition Authority obliged to publish reasoned decisions to ensure transparency?	Yes	The TCCT has the duty to disseminate the outcome of matters considered by the Commission the general public. Trade Competition Act, § 29(12). <i>[Please introduce the relevant provisions]</i>		
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	When the revenue collected by the TCCT is insufficient to ensure the efficient operation of the Commission, the Government shall allocate government budget in the necessary amount as general subsidized money. Trade Competition Act, § 45. <i>[Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved]</i>		
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	The TCCT can be financed by fees, compensation, service charges, or other income from the operations of the Commission. Trade Competition Act, § 44(4). This is not inclusive of administrative fines. <i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i>		
GOVERNANCE OF THE COMPETITION AUTHORITY				
Is the Competition Authority governed by a single chairman or by a collegiate body?	Collegiate Body. The Commission consists of a Chairperson, a Deputy Chairperson, and five other Commissioners. Trade Competition Act, § 7. <i>[Answer "single chairman" if the directive organ of the authority is composed of one person. Answer "collegiate body" if the authority's directive organ is composed of two or more members, regardless if this organ is directed or presided by a chairman or president. Also mention how many board members or directors are part of the Direction Body]</i>			
How are the members of the Authority's directive organ chosen?	Members of the Commission are appointed by the Prime Minister from persons chosen by a selection process approved by the Cabinet. Trade Competition Act, § 7. The Cabinet Selection Committee is comprised of the Ministers of Finance, Agriculture and Cooperatives, Commerce, Justice, Industry, the Secretaries General of the National Economic & Social Development Board and the Consumer Protection Board, and the Chairpersons of the Thai Chamber of Commerce and Federation of Thai Industries. The Committee calls for applications publicly before considering applications with the required qualifications. The Committee then remits a list of qualified candidates to the Cabinet for approval. Trade Competition Act, §§ 11-12. <i>[Please describe the electing process for choosing the members of the directive organ. Include relevant provisions; mention</i>			

		<i>the branch government involved in this process]</i>	
Is there a fixed period during which removal is prohibited?	No	Commissioners can only be removed for (1) death, (2) resignation, (3) a Cabinet resolution to remove due to failure to fulfill his or her duty, atrocious behavior, or lack of capacity to perform duties, (4) losing Thai citizenship, exceeding 70 years old, holding political office, holding office with a political party, mental incapacity, drug addiction, bankruptcy, incapacitation, sentenced to imprisonment, and taking a position as a Justice of the Constitutional Court, Election Commissioner, Anti-Corruption Commissioner, Auditor General, or Human Rights Commissioner, or (5) holding a 5% stake in a company or partner with management power, employment s a civil servant or official government employee, or employment with a trade association. Trade Competition Act, § 9-10, 14. <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	The four-year term of commissioners is renewable once. Trade Competition Act, § 13. <i>[Please, introduce the relevant provisions]</i>	
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	"Each Commissioner shall be a person who has achievements or has performed duties that demonstrate that he or she has requisite knowledge and has expertise and/or experience of not less than ten years in one or more of the following fields including, law, economics, finance, accounting, industry, business administration, consumer protection, or other fields which benefit competition regulation. The period of experience in these fields may be considered cumulatively." Trade Competition Act, § 8. <i>[If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions]</i>	
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?	Stand-alone	<i>[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized]</i>	
POLICY DUTIES			
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Exclusive	<input checked="" type="checkbox"/>	Concurrent consumer protection mandate.
		<input checked="" type="checkbox"/>	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	The TCCT is able to investigate cartel behavior. Specifically, the TCCT can review agreements between competitors to fix prices, limit production/purchases/sales, engage in bid rigging, allocate business areas. TCCT can also review cartel instances of price dumping, exclusivity agreements, and purchase or production practice agreements. Trade Competition Act, §§ 54-55. In cases of violations, the TCCT may issue an administrative fine not exceeding 10% of the turnover in the year of the offense. If the offense occurred in the first year of business, the fine is limited to 1 Million Baht (~\$28,000 USD). Trade Competition Act, § 82. The TCCT may also refer instances of anticompetitive unilateral conduct for criminal prosecution with the penalty being imprisonment of up to two years and a 10% of turnover fine. Similarly, if the act occurred in the first year of business, the fine is limited to 1 Million Baht (~\$28,000 USD). Trade Competition Act, § 72.	

		<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 TCCT is able to investigate unilateral conduct. Specifically, it can investigate abuse of a dominant position through unilateral price fixing, imposing unfair dealing conditions, refusal to sell, destroying inventory to inflate prices, and inappropriate intervention in the affairs of other businesses. Trade Competition Act, §§ 50, 57. The Commission may make an order instructing a business to suspend, stop, correct, or change conduct. A person violating Section 57 rules is subject to an administrative fine not exceeding 10% of the turnover in the year of the offense. If the offense occurred in the first year of business, the fine is limited to 1 Million Baht (~\$28,000 USD). Trade Competition Act, § 82. The TCCT may also refer instances of anticompetitive unilateral conduct for criminal prosecution with the penalty being imprisonment of up to two years and a 10% of turnover fine. Similarly, if the act occurred in the first year of business, the fine is limited to 1 Million Baht (~\$28,000 USD). Trade Competition Act, § 72.</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>Yes. The TCCT may conduct <i>ex-ante</i> merger review. If a merger may result in a monopoly or a party/parties with a dominant position, the merger must be notified. The TCCT has the authority to approve, modify, or block mergers as part of a substantive analysis that looks at whether the merger is necessary for the business, beneficial to the market, does not harm the economy, and does not materially harm consumers.</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>Business operators conducting a merger that can substantially reduce competition must notify <u>the outcome</u> of the merger to the TCCT within 7 days of completion. The TCCT has interpreted this to include any merger of undertakings with sales revenue of one of the parties or the combined sales revenues of the parties being 1 Billion Baht (~\$25.5 Million) or higher. If such a merger would result in a monopoly or dominant position, the merger is not subject to this section but instead the “permission” section outlined below. Such notifications must indicate the amount of market share, sales revenue, capital amount, number of stocks, or assets that the operators are now subject to.</p> <p>Business operators planning to conduct a merger which may cause a monopoly or result in a dominant position must seek permission from the Commission. The Commission must grant or deny a petition within 90 days (plus a 15-day extension if necessary). In this case, the TCCT has interpreted “monopoly” to mean the sole undertaking in a market with substantial power to independently determine its price and quantity of its product or service and has a sales revenue of 1 Billion Baht (~\$25.5 Million) or higher. A business operator with “dominant market power”, is defined as any business operator having a market share of 50% or more and having a sales turnover of at least 1 billion baht (~\$25.5 Million) in the previous year or any of the top three business operators which together have an aggregate market share of 75% or more in</p>

		<p>the previous year (excluding any business operator having a market share in the previous year of lower than 10 per cent or having a sales turnover in the previous year of lower than 1 billion baht).</p> <p>Applications must include a proposed merger plan, details of the parties, a merger study analysis regarding market impact.</p> <p>Trade Competition Act, §§ 51-52; Trade Competition Commission Notice on Rules, Procedures and Conditions for Notification of Merger Transaction B.E. 2561 (2018); The Trade Competition Commission Notice on Rules, Procedures, and Conditions for Merger Approval B.E. 2561 (2018).</p> <p><i>[If the answer is "yes", please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions]</i></p>
Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)?	No	<p>Trade Competition Act, §§ 51, 81.</p> <p><i>[Please mention the relevant provisions and add any explanation that you deem necessary]</i></p>
Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations?	No	<i>[Please mention relevant provisions]</i>
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	No	<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	<p>Officers have the ability to enter places and venues of operation, sale, purchase, storage, or service if they believe a competition violation is occurring on site. No limitations are provided with regard to time of day. Trade Competition Act, § 63.</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?	No	<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	<p>The TCCT can only refer cases to the district attorney for criminal prosecution. The district attorney has the authority to refuse to prosecute, however the TCCT may appeal the decision to not prosecute to the attorney general who may elect to work with the Commission to gather additional evidence. See Trade Competition Act, § 25.</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i></p>
Advocacy		
Can the Competition Authority issue opinions on draft legislation?	Yes	<p>Trade Competition Act, § 17(11)-(12).</p> <p><i>[if the answer is yes, please specify if there is any kind of limitation to the agency's authority to issue opinions, include relevant provisions]</i></p>
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No	<i>[if the answer is yes, include relevant provisions]</i>
Rulemaking		
Can the Competition Authority issue guidelines?	Guidelines & Binding Regulations	<p>√</p> <p>Guidelines on the calculation of fines.</p>

		√	Guidelines on merger control.
		√	Guidelines on the economic analysis of abuse of dominance cases.
Can the Competition Authority issue binding regulation on competition?	Yes		The TCCT may issue regulations for the performance of duties under the Trade Competition Act. Trade Competition Act, § 17(2). <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		Trade Competition Act, § 29(3). <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>
DECISION-MAKING FUNCTIONS			
Aggregated Functions			
Does the Competition Authority make the decision to investigate and make guilty findings?	Yes		Yes. Decisions to investigate as well as findings of guilt subject to administrative sanctions are the sole providence of the TCCT. However, criminal sanctions are referred for prosecution to the district attorney and findings of guilt in such cases are made in court. <i>[If the answer is "yes", include relevant provisions]</i>
Does the Competition Authority impose punishments?	Yes		The TCCT is only empowered to impose administrative fines and orders. Criminal penalties are imposed by courts. <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 Office of the TCCT operates as the secretariat of the body and conducts investigations, receives complaints, and conducts merger review on its behalf. Investigations can only be initiated following a complaint. If a complaint is received, the TCCT office must create a report for the Commission to consider whether to pursue the claim. The Commission then decides whether there are grounds to investigate and makes a determination. If the decision is made to investigate, the Commission creates a sub-committee to manage the investigation and notice is sent to the accused and complainant of the decision. The investigation is then conducted including interrogations, subpoena use, and premises inspections. The sub-committee will then create a report regarding its recommendations of guilt or innocence as well as penalties if appropriate. <i>See, The Trade Competition Commission Regulation on Complaints, Investigation, and Procedures for Criminal or Administrative Prosecution B.E. 2562 (2019).</i> <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		The Administrative Law Court has authority to review appeals regarding administrative orders made by TCCT. Trade Competition Act §§ 52, 60, 62. <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.			

