

# **COMPETITION ENFORCEMENT AGENCIES**

## HANDBOOK 2019

Published in association with:

Atsumi & Sakai

Bowmans

Cooley

ELIG Gürkaynak Attorneys-at-Law

Lapidot, Melchior, Abramovich & Co

Morrison & Foerster LLP

SRS Advogados

Van Bael & Bellis



# Competition Enforcement Agencies Handbook 2019

---

A Global Competition Review Special Report

Reproduced with permission from Law Business Research Ltd

This article was first published in May 2019

For further information please contact [Natalie.Clarke@lbresearch.com](mailto:Natalie.Clarke@lbresearch.com)



## **Competition Enforcement Agencies Handbook 2019**

**Insight account manager** Bevan Woodhouse  
bevan.woodhouse@lbresearch.com  
Tel: +44 20 3780 4291

**Head of production** Adam Myers  
**Editorial coordinator** Hannah Higgins  
**Deputy head of production** Simon Busby  
**Designer** James Green  
**Production editor** Harry Turner  
**Subeditor** Janina Godowska

**Research editor** Tom Barnes  
**Researcher** Helen Barnes

**Editor, Global Competition Review** Pallavi Guniganti  
**Publisher** Clare Bolton

To subscribe please contact  
Global Competition Review  
87 Lancaster Road  
London, W11 1QQ  
United Kingdom  
Tel: +44 20 7908 9205  
Fax: +44 20 7229 6910  
subscriptions@globalcompetitionreview.com

No photocopying. CLA and other agency licensing systems do not apply.  
For an authorised copy contact [claire.bagnall@globalcompetitionreview.com](mailto:claire.bagnall@globalcompetitionreview.com)

This publication is intended to provide general information on competition law, economics and policy. The information and opinions that it contains are not intended to provide legal advice, and should not be treated as a substitute for specific advice concerning particular situations (where appropriate, from local advisers).

© 2019 Law Business Research Limited  
ISBN: 978-1-83862-222-0

Printed and distributed by Encompass Print Solutions  
Tel: 0844 248 0112

# Competition Enforcement Agencies Handbook 2019

---

Published in association with:

Atsumi & Sakai

Bowmans

Cooley

ELIG Gürkaynak Attorneys-at-Law

Lapidot, Melchior, Abramovich & Co

Morrison & Foerster LLP

SRS Advogados

Van Bael & Bellis

## CONTENTS

Albania.....	1	El Salvador .....	88
Algeria .....	5	Estonia.....	91
Argentina.....	8	European Union .....	94
Armenia .....	11	Andrzej Kmiecik and Andreas Reindl	
Australia .....	17	Van Bael & Bellis	
Austria .....	21	Faroe Islands .....	109
Azerbaijan .....	24	Fiji.....	110
Barbados.....	26	Finland.....	111
Belarus .....	28	France.....	114
Belgium .....	29	Gambia .....	119
Bosnia and Herzegovina .....	32	Germany .....	121
Botswana .....	34	Greece .....	127
Brazil.....	38	Honduras.....	128
Bulgaria .....	42	Hong Kong.....	129
Canada .....	46	Hungary.....	132
Channel Islands.....	47	Iceland.....	138
Chile.....	50	India .....	142
China.....	54	Indonesia.....	146
Colombia .....	57	Ireland.....	149
COMESA .....	63	Israel .....	153
Costa Rica.....	66	D Ziv Abramovich	
Croatia .....	67	Lapidot, Melchior, Abramovich & Co	
Cyprus.....	70	Italy .....	162
Czech Republic.....	73	Jamaica.....	165
Denmark.....	77	Japan.....	167
Ecuador .....	80	Setsuko Yufu, Tatsuo Yamashima, Saori Hanada	
EFTA .....	84	and Masayuki Matsuura	
Egypt.....	87	Atsumi & Sakai	
		Jordan .....	176
		Kazakhstan .....	178
		Kenya.....	179
		Korea .....	182

Kosovo.....	186	Serbia.....	280
Latvia .....	187	Seychelles .....	284
Lithuania .....	192	Singapore.....	287
Luxembourg.....	195	Slovakia .....	290
Macedonia .....	196	Slovenia .....	295
Malaysia .....	199	South Africa .....	298
Malta.....	201	Maryanne Angumuthoo and Shakti Wood Bowmans	
Mauritius .....	203	Spain.....	306
Mexico .....	207	Sri Lanka .....	310
Moldova.....	212	Swaziland .....	312
Mongolia .....	215	Sweden.....	315
Montenegro .....	216	Switzerland .....	320
Morocco .....	219	Taiwan .....	325
Namibia.....	220	Tanzania .....	328
Netherlands .....	221	Thailand.....	329
New Zealand.....	224	Turkey .....	330
Nicaragua.....	228	Gönenç Gürkaynak and K Korhan Yıldırım ELIG Gürkaynak Attorneys-at-Law	
Norway .....	229	Ukraine .....	343
Panama .....	233	United Kingdom .....	348
Papua New Guinea .....	235	Becket McGrath and Christine Graham Cooley	
Peru .....	236	United States.....	359
Philippines .....	241	David Meyer and Mary Kaiser Morrison & Foerster LLP	
Poland .....	242	Uruguay.....	373
Portugal.....	248	Uzbekistan .....	375
Gonçalo Anastácio and Luís Seifert Guincho SRS Advogados		Venezuela.....	376
Romania .....	256	Vietnam .....	377
Russia .....	261	Yemen.....	378
Saudi Arabia .....	279	Zambia.....	379

*Global Competition Review's* 2019 edition of the *Competition Enforcement Agencies Handbook* provides full contact details for competition agencies in over 100 jurisdictions, together with charts showing their structure and a Q&A explaining their funding and powers. The information has been provided by the agencies themselves and by a panel of specialist local contributors.

The *Competition Enforcement Agencies Handbook* is part of the *Global Competition Review* subscription service, which also includes online community and case news, enforcer interviews and rankings, bar surveys, data tools and more.

We would like to thank all those who have worked on the research and production of this publication: the enforcement agencies and our external contributors.

The information listed is correct as of April 2019.

### **Global Competition Review**

London

April 2019

# Commission for the Supervision of Business Competition

KPPU Building, Jl. Ir H Juanda No.36, Jakarta Pusat, 10120, Indonesia

Tel: +62 21 34831563

Fax: +62 21 3507008

international@kppu.go.id

http://eng.kppu.go.id

## Contacts

### Kurnia Toha

Chairman

kurnia.toha@kppu.go.id

### Charles Panji Dewanto

Acting Secretary General

panji@kppu.go.id

### Taufik Ahmad

Acting Deputy, Prevention

taufik\_ahmad@kppu.go.id

### Ukay Karyadi

Vice Chairman

ukay.karyadi@kppu.go.id

### Setya Budi Yulianto

Acting Deputy, Law Enforcement

setyabudi@kppu.go.id

### Retno Wiranti

Head of International

Cooperation Division

eno@kppu.go.id

## Questions and answers

### How long is the head of agency's term of office?

The Commission for the Supervision of Business Competition (KPPU) is a decision-making body composed of commissioners working with a collegial system. The commissioners serve for a five-year term. Their assignment can be extended for maximum of two more terms of office.

### When is he or she due for reappointment?

The KPPU is undergoing a new leadership with the appointment of nine new commissioners in May 2018. In this period, the commissioners elected Kurnia Toha and Ukay Karyadi as the new chairman and vice chairman.

### Which posts within the organisation are political appointments?

The commissioner position at the KPPU is a political appointment. The election process takes up to five months. An independent team elected by the President selects several government officials, academics, business people or lawyers to screen the candidates to be nominated to parliament. The selected nominees are then recommended to the President for his approval for appointment. The President will appoint the nominees once they pass the fit and proper test and receive approval from the parliament. Before the process in

parliament, by way of public disclosure, the public may also review the selected candidates. For this, the independent team will announce the shortlisted candidates in the national newspaper.

### What is the agency's annual budget?

The KPPU's resources comes from the state budget. However, the law leaves open the possibility that the KPPU's budget be supplemented by alternative sources, such as a grant or loan (for example, international donors). The KPPU's current budget is approximately US\$9.4 million.

### How many staff are employed by the agency?

The total number of staff employed is around 347 people, including the director, manager, investigator, auditor and administrative staff.

### To whom does the head of the agency report?

As per article 35g of the Competition Law, the KPPU is required to report to the President and to the People's Legislative Assembly.

### Do any industry-specific regulators have competition powers?

No. The KPPU is the only agency that enforces and promotes competition law and policy. However, the



KPPU may cooperate with industry-specific regulators concerning competition matters.

**Do politicians have any right to overrule or disregard the decisions of the authority?**

No. Politicians have no rights to overrule or disregard the KPPU's decisions. According to the law, decisions only can be appealed through the district court and the Supreme Court.

**Does the law allow non-competition aims to be considered when taking decisions?**

Yes. The Competition Law contains a number of exclusions and exemptions that use broad concepts. Some of these are included to address industrial and socio-economic policy goals such as promoting innovation, public interest, small- and medium-sized businesses and so on. Several guidelines issued in defining the concept of exclusion and exemption are stipulated in the law.

**Which body hears appeals against the agency's decisions? Is there any form of judicial review beyond that mentioned above? If so, which body conducts this?**

Article 44 (2) states that a business actor may appeal to the district court no later than 14 days after receiving notification of the aforementioned decision. A party that has submitted an appeal to the district court and is dissatisfied with the decision, may proceed their appeal to the Supreme Court within 14 days of receiving notification of the district court decision.

**Has the authority ever blocked a proposed merger?**

No.

**Has the authority ever imposed conditions on a proposed merger?**

Yes. The KPPU has imposed several conditions on a proposed merger. The purposes of conditions are to ensure that the output from merger will not violate Law No. 5 of 1999. There are some conditions that the KPPU will impose on a proposed merger:

- the KPPU will impose structural conditions to restrict the size of merging parties to not become a dominant firm in the market or industry, for example, conditions such as divestments;
- the KPPU will impose a behavioural condition to ensure that the merging parties will not use its market power to harm the competition or the consumer. Conditions include eliminating barriers to entry, bundling and tying in, and others; or

- if necessary, the KPPU can give recommendation to the government for overseeing the result of a merger if the industries are highly regulated.

**Has the authority conducted a Phase II investigation in any of its merger filings?**

The KPPU will conduct a Phase II investigation if Phase I – used to determined the concentration change caused by merger – shows that the concentration in the industry is changed drastically as a result of the merger. In that case, the KPPU's will conduct a Phase II investigation with an emphasis on barriers to entry, efficiency, the potential for anticompetitive behaviour and a failing firm defence (if any). One of the examples is the acquisition of PT Axis by PT XL Axiata in 2012.

**Has the authority ever pursued a company based outside your jurisdiction for a cartel offence?**

Not for a cartel offence. However, there are some practices where the KPPU has imposed sanctions on foreign-based companies. This is done on the condition that they are doing business in Indonesia.

**Do you operate a leniency programme? Whom should potential applicants contact?**

There is no leniency programme. However, the KPPU has included a leniency programme to be adopted in the amendment of the law.

**Is there a criminal enforcement track? If so, who is responsible for it?**

If there is a criminal finding on a competition case, it is transferred to the police, the attorney general, the Commission for the Eradication of Corruption or to concerned criminal bodies.

**Are there any plans to reform the competition law?**

Yes. The KPPU is facing the amendment process of the law by the parliament, to be completed this year.

**When did the last review of the law occur?**

The law has not been reviewed since it was enacted in 1999.

**Do you have a separate economics team? If so please give details.**

The KPPU does not have a specific economics team. The KPPU uses task forces based on need.

**Has the authority conducted a dawn raid?**

The KPPU does not have the authority to conduct a dawn raid.

**Has the authority imposed penalties on officers or directors of companies for offences committed by the company?**

If the offence is committed by the company then penalties will go to the company, not their officers or directors, unless the individual acts at their own interest.

**What are the pre-merger notification thresholds, if any, for the buyer and seller involved in a merger?**

Indonesia uses a post-merger notification. A certain amount shall consist of:

- asset value in the amount of 2.5 trillion rupiah; or
- sales value in the amount of 5 trillion rupiah.

For business actors engaged in the banking sector, the obligation to provide written notice shall be applicable in the event that the asset value exceeds 20 trillion rupiah.

**Are there any restrictions on minority investments that involve less than a majority stake in the business?**

There are no such restrictions for those which not listed in the negative list of investment issued by the government.

LAW BUSINESS RESEARCH

Visit [globalcompetitionreview.com](http://globalcompetitionreview.com)  
Follow @GCR\_Alerts on Twitter  
Find us on LinkedIn

ISBN 978-1-83862-222-0