

# **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

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A Global Competition Review Special Report

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## **Competition Enforcement Agencies Handbook 2019**

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*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.

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## Questions and answers

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

No fixed term.

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

No fixed term for reappointment.

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

None.

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

The Competition Directorate (CD) is incorporated within the Ministry of Industry and Trade; the budget allocated for the CD is around US\$90,000.

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

Eleven.

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

To the Minister of Industry, Trade and Supply.

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

Yes, some regulatory bodies implement sectoral law, such as the Telecommunication Regulatory Commission and Public Transportation Commission.

**If so, how do these relate to your role?**

Some of these laws have articles related to competition. The CD and regulatory bodies seek the opinion of each other when it comes to competition in specific sectors. The CD has signed a memorandum of understanding with the Telecommunication Regulatory Commission to facilitate competition matters.

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

No.

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

Some practices that could be exempted by the minister shall not be considered anticompetitive if they lead to positive results, with a common benefit that cannot be achieved without this exemption, including the improvement of the competitive ability of enterprises, or production or distribution systems, or providing certain benefits to the consumer. (Enterprises shall request to be granted this exemption.)



**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?**

For anticompetitive practices, decisions are made by the court of first instance, which can be appealed at the appeal court. Decisions of the appeal court can be challenged at the Cassation Court.

The minister's decisions in mergers and exemption requests can be appealed at the Supreme Court.

**Has the authority ever blocked a proposed merger?**  
No.

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

**Has the authority conducted a Phase II investigation in any of its merger filings?**  
No.

**Has the authority ever pursued a company based outside your jurisdiction for a cartel offence?**  
No.

**Do you operate a leniency programme? Whom should potential applicants contact?**  
Yes, article 25/b of the Competition Law states: 'The Court may mitigate the punishment of a violator of the provisions of Articles (5), (9) and (10) of this Law if such a violator provides the Directorate with information leading to the detecting such practices.'

**Is there a criminal enforcement track? If so, who is responsible for it?**  
Article 26 of the Competition Law states: 'The issuance of a verdict setting a fine under this Law shall not preclude an order of imprisonment in accordance with the Penal Code or any other law.'

**Are there any plans to reform the competition law?**  
Not at the moment.

**When did the last review of the law occur?**  
October 2011.

**Do you have a separate economics team? If so please give details.**  
Four economics, in different departments.

**Has the authority conducted a dawn raid?**  
No.

**Has the authority imposed penalties on officers or directors of companies for offences committed by the company?**  
No.

**What are the pre-merger notification thresholds, if any, for the buyer and seller involved in a merger?**  
If the total share of the enterprise or enterprises involved in a merger (buyer and seller) exceeds 40 per cent of the total transactions in the relevant market.

**Are there any restrictions on minority investments?**  
Not at all.

**What discounts are available to companies that cooperate with cartel investigations?**  
The Court may mitigate the punishment of a violator of the provisions of Competition Law if such a violator provides to the CD information leading to the uncovering of such practices.

**Does the authority conduct criminal investigations and prosecutions for cartel activity? If not, is there another authority in the country that does?**  
Yes.

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