

# **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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*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.

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## Questions and answers

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

The three commissioners have a six-year term of office and each one fills the role of president for two years on a rotating basis.

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

The next rotation will take place in March 2019.

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

The three commissioners.

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

Eleven people, including the commissioners.

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

He or she reports to the Minister of Economy and Finance.

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

Yes, there are three industry-specific regulators that have competition powers in the financial services, communications services, and energy, gas and water services sectors. Their regulators are, respectively, the Central Bank, URSEC and URSEA.

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

The Competition Authority performs its duties in all sectors that do not have industry-specific regulator. The industry-specific regulators can ask for advice from the Competition Authority of competition cases in their regulated markets.

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

The Minister of Economy and Finance has the right to revoke those decisions.

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

No. The law provides that when assessing the investigated practices, it is required to take into account whether they generate economic efficiency gains and if these efficiency gains benefit consumers.

### 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?

The first level of review is an appeal to the Minister of Economy and Finance. The second level is a nullity action to the Court of Administrative, which has jurisdiction to annul administrative acts issued by the different public agencies.

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

According to the Law on Promotion and Defence of Competition (Law 18159), economic concentrations (mergers and acquisitions) do not require the approval of the Competition Authority. Those operations require a previous notification to the Competition Authority, providing certain mandatory information requested. Previous approval is required only when a monopoly emerges as a result of the economic concentration.



**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, we have a leniency programme. Potential applicants should contact the Commission, according to the directions via our website at <http://competencia.mef.gub.uy/7963/5/areas/acceder-al-programa-de-clemencia.html>.

**Is there a criminal enforcement track? If so, who is responsible for it?**  
No, there is no criminal enforcement track.

**Are there any plans to reform the competition law?**  
The government has proposed a reform of the law that includes a merger review. The amendment would introduce a system where authorisation is required and the deadline is 60 days. The proposal is being considered at parliament.

**When did the last review of the law occur?**  
The current law was approved in 2007 and has not had any reform since then.

**Do you have a separate economics team? If so please give details.**  
We have economists as well as lawyers.

**Has the authority conducted a dawn raid?**  
The authority has conducted on-site inspections. For this purpose, the help of the judicial authority is required and the Competition Authority arrives at the place with a judge or other judicial authority.

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

The Law on Promotion and Defence of Competition (article 19) provides for the imposition of sanctions against directors, administrators and members of boards of directors of companies sanctioned because of anticompetitive conducts. To date, this kind of sanction has not been imposed.

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

- when, because of the merger, the companies' participation reached 50 per cent or more of the market share in the relevant market; or
- when the annual gross revenues in Uruguay of all the participants is at least 750 million Indexed Units.

**Are there any restrictions on minority investments?**  
No, there are not.

**What discounts are available to companies that cooperate with cartel investigations?**  
The leniency programme establishes the possibility of reducing or exempting from penalties, depending on the case and the information and evidence provided.

**Does the authority conduct criminal investigations and prosecutions for cartel activity? If not, is there another authority in the country that does?**  
The Competition Authority does not conduct criminal processes. If the Authority realises that an association of enterprises has perpetrated a crime, then the matter is presented to the criminal court.

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