

<b>MALAWI*</b>			
<b>COMPETITION FRAMEWORK</b>			
Competition Law	The Malawi government passed the Competition and Fair Trading Act in 1998 (“Act”). The Act came into force on 1 April 2000.		
Competition Authority	Competition and Fair Trading Commission (“Commission”).		
<b>STATUS OF THE COMPETITION AUTHORITY</b>			
<b>Accountability</b>			
Does the Competition Authority have obligations before the executive?	Yes	X	Obligations to report to the executive on on-going investigations upon request.
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.
		√	The Competition Authority has to report on an annual basis to the executive.
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities. The Director General has the obligation to present annual reports to parliament.
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.
		X	Its activities are monitored by an independent auditor or by oversight committees.
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions from the Competition Authority are subject to judicial review.
<b>Independence</b>			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<i>See</i> the Act, Part II, sections 5-6.	
Does the executive have powers to decide on specific cases based on public interest?	No		
Does the executive retain decision-making powers over the Competition Authority?	No		
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes	<i>See</i> the Act, Part II, section 8(e) stating that “[t]he Commission shall provide persons engaged in business with information regarding their rights and duties under this Act.” <i>See also</i> the Act, section 11, providing that “[h]earings of the Commission shall take place in public but Hearings to the Commission may, whenever the circumstances so warrant, conduct a hearing in private”.	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	<i>See</i> the Act, Part IV, section 26.	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	<i>See</i> the Act, Part IV, section 26.	
<b>GOVERNANCE OF THE COMPETITION AUTHORITY</b>			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Collegiate body	<i>See</i> the Act, section 5(1), “the Commission shall consist of: (i) two persons representing business interests; (ii) a lawyer; (iii) an economist; (iv) an accountant; and (v) two persons representing consumer interests.”	
Does a minister appoint the heads?	Yes	<i>See</i> the Act, section 5(1)(a).	
Do representatives of more than one government branch appoint the heads?	No	<i>See</i> the Act, section 5(1)(a).	
Is there a fixed period during which removal is prohibited?	No		
Is the tenure of the heads renewable?	Yes	<i>See</i> the Act, section 6(1), “a member shall hold for a period of three years and shall be eligible for reappointment for another three-year term.”	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	<i>See</i> the Act, section 5(1), “the Commission shall consist of: (i) two persons representing business interests; (ii) a lawyer; (iii) an economist; (iv) an accountant; and (v) two persons representing consumer interests. Section 5(5) The person shall be chose for their ability and experience in industry, commerce or administration or their professional qualifications or their suitability otherwise for appointment.”	
<b>ARCHITECTURE</b>			
Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a minister?	Stand-alone agency.		
<b>POLICY-MAKING AGENTS -DIVERSIFICATION-</b>			
How many agencies are responsible for	One agency.		

competition enforcement?			
Do sector regulators have competition policy enforcement mandate?	N/A		
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	N/A		
<b>POLICY DUTIES</b>			
Does the Competition Authority have exclusive mandate on competition or multiple mandates?	No	X	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		Other mandates: Non.	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>Law Enforcement</b>			
Does the Competition Authority have powers to investigate cartels?	N/A		
Does the Competition Authority have powers to conduct dawn raids premises?	N/A		
Can the Competition Authority investigate <i>ex officio</i> cases?	N/A		
Does the Competition Authority have powers to accept leniency applications?	N/A		
Does the Competition Authority have powers to seek criminal punishment?	N/A		
<b>Advocacy</b>			
Can the Competition Authority issue opinions on draft legislation?	Yes	<i>See</i> the Act, section 53, the minister may, on the advice of the Commission, make regulations for carrying into effect the provisions of this Act. The opinions are not binding.	
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No		
<b>Rulemaking</b>			
Can the Competition Authority issue guidelines or other type of secondary legislation?	No	X	Guidelines on the calculation of fines.
		X	Guidelines on merger control.
		X	Guidelines on the economic analysis of abuse of dominance cases.
<b>Research &amp; Reporting</b>			
Can the Competition Authority carry out market studies?	Yes	<i>See</i> the Act, section 8(f).	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	<i>See</i> the Act, section 8(h).	
<b>DECISION-MAKING FUNCTIONS</b>			
<b>Aggregated Functions</b>			
Does the Competition Authority make the decision to investigate and to prosecute cases?	Yes		
Does the Competition Authority make guilty findings?	Yes		
Does the Competition Authority impose punishments?	Yes		
Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	Yes		
Can the Competition Authority's decisions be appealed to a court?	Yes		
<b>Disaggregated Functions—Prosecutorial Model</b>			
Are there different authorities that make the decision to investigate and to prosecute cases?	No		
Are disputes presented for decision to a separate entity/tribunal?	No		
* Data based on public sources.			