

BRAZIL			
COMPETITION FRAMEWORK			
Competition Law	The Act no 12, 529 enacted on November 30, 2011.		
Competition Authority	The Administrative Council for Economic Defense (“CADE”) started functioning on May 29 2012. Website: http://www.cade.gov.br/		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
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.
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.
		√	Its activities are monitored by an independent auditor or by oversight committees.
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<i>See</i> article 6 of the Act.	
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		
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	<i>See</i> article 21 of the Act. Current fiscal year budget for 2012: R\$ 23,000,000.00.	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	<i>See</i> articles 27-28 of the Act (except fines and fees).	
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Collegiate body.		
Are the heads appointed by a minister?	No		
Are the heads appointed by representatives of more than one government branch?	Yes	The commissioners are appointed by the Brazilian president, but must be confirmed by the Senate.	
Is there a fixed period during which removal is prohibited?	Yes		
Is the tenure of the heads renewable?	No	The tenure of two years of the Superintendent is renewable for other two years.	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes		
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 minister?	Stand-alone agency.		
POLICY-MAKING AGENTS -DIVERSIFICATION-			
How many agencies are responsible for competition enforcement?	One agency.		
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	Telecommunications regulator	No	
	Energy regulator	No	
	Transport regulator	Yes, with the National Civil Aviation Agency.	
	Other	N/A	
POLICY DUTIES			
Does the Competition Authority have exclusive	Exclusive	X	Concurrent consumer protection mandate.

mandate on competition or multiple mandates?	competition mandate	X	Concurrent IP mandate.
		Other mandates: Not applicable.	
PORTFOLIO INSTRUMENTS			
Law Enforcement			
Does the Competition Authority have powers to investigate cartels?	Yes	CADE does not investigate criminal cartels.	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes		
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See article 9 of the Act.	
Does the Competition Authority have powers to accept leniency applications?	Yes	See article 86 of the Act.	
Does the Competition Authority have powers to accept seek criminal punishment?	Yes		
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	See article 19 of the 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		
Rulemaking			
Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	√	Guidelines on the calculation of fines.
		√	Guidelines on merger control.
		√	Guidelines on the economic analysis of abuse of dominance cases.
Research & Reporting			
Can the Competition Authority carry out market studies?	Yes	See article 8 of the Act.	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	See article 9 of the Act.	
DECISION-MAKING FUNCTIONS			
Aggregated Functions			
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?	No		
Can the Competition Authority's decisions be appealed to a court?	Yes		
Disaggregated Functions—Prosecutorial Model			
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		