

VENEZUELA*			
COMPETITION FRAMEWORK			
Competition Law	The Law for the Promotion and Protection of Free Competition (“Competition Law”) was published in the Official Gazette no. 34.880, on January 13, 1992.		
Competition Authority	The Competition Law established Superintendencia para la Protección y Promoción de la Libre Competencia (“Procompetencia”), an entity which forms part of the Ministry of Commerce. Website: http://www.procompetencia.gob.ve/		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	Yes	√	Obligations to report to the executive on on-going investigations upon request. <i>See</i> article 29(8) of the Competition Law.
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.
		X	The Competition Authority has to report on an annual basis to the executive. Procompetencia prepares a general annual report, but it is not directed to the executive.
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities. <i>See</i> Competition Authority’s rules, Chapter IV, Section II, article 13(e).
		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. <i>See</i> Competition Law, articles 29(8) and 53.
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<i>See</i> Competition Law, article 24.	
Does the executive have powers to decide on specific cases based on public interest?	Yes	The executive can determine exceptions to competition rules, but in a general way and not for specific cases.	
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> Competition Law, article 30.	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes		
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes		
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman		
Are the heads appointed by a minister?	Yes	<i>See</i> Competition Law, article 21. He is appointed by the president of Venezuela.	
Are the heads appointed by representatives of more than one government branch?	No		
Is there a fixed period during which removal is prohibited?	Yes	According to Competition Law, article 22, four years.	
Is the tenure of the heads renewable?	Yes	<i>See</i> Competition Law, article 22.	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	<i>See</i> Competition Law, article 23. Minimum of age of thirty, well-known and has experience in financial, economic, and commercial affairs, related to competition.	
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?	Part of a bigger entity	It is part of the “Ministerio del Poder Popular para el Comercio” (Ministry of Popular Power for Commerce).	
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?	No		

POLICY DUTIES			
Does the Competition Authority have exclusive mandate on competition or multiple mandates?	Exclusive competition mandate	X	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		Other mandates: Not applicable.	
PORTFOLIO INSTRUMENTS			
Law Enforcement			
Does the Competition Authority have powers to investigate cartels?	Yes	See Competition Law, article 10.	
Does the Competition Authority have powers to conduct dawn raids at premises?	No		
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See Competition Law, article 32.	
Does the Competition Authority have powers to accept leniency applications?	No		
Does the Competition Authority have powers to accept seek criminal punishment?	No		
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	See Competition Law, article 29(2). 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	X	Guidelines on the calculation of fines.
		X	Guidelines on merger control.
		X	Guidelines on the economic analysis of abuse of dominance cases.
		Other comments/notes: See Competition Law, article 29(6) and (7).	
Research & Reporting			
Can the Competition Authority carry out market studies?	Yes	See Competition Authority's rules, Chapter IV, Section V, article 16.	
Can the Competition Authority report to the legislature on the results of market studies?	No		
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?	Yes		
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		