

<b>BELGIUM</b>			
<b>COMPETITION FRAMEWORK</b>			
Competition Law	The Belgian Act on the Protection of Economic Competition (“APEC”) was consolidated on September 15, 2006.		
Competition Authority	Belgian Competition Authority, which is composed of the Council of Competition and the Directorate-General for Competition, started functioning on January 1, 2007. Website: <a href="http://economie.fgov.be/en/entreprises/competition/Belgian_Competition_Authority/">http://economie.fgov.be/en/entreprises/competition/Belgian_Competition_Authority/</a>		
<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.
		√	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?	No	√	Obligation to publish an annual report on its activities.
		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 of the Competition Authority are subject to judicial review.
		<b>Other obligations/comments:</b> Competition Council’s decisions may be reviewed by the Court of Appeal in Brussels or, if the Competition Council takes decisions as an appellate court for decisions by sector regulators, by the Supreme Court. Appeals against a decision of the competition prosecutors not to pursue a case are handled by a chamber of the Competition Council or by the Chairman of the Council in the case of provisional measures.	
<b>Independence</b>			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes		
Does the executive have powers to decide on specific cases based on public interest?	Yes	The Council of Minister may, at the request of the notifying parties and on grounds of general interest, allow a merger that has been prohibited by the Competition Council. This procedure was introduced in 1999 and has never been used.	
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> article 67 of APEC.	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	The national budget has a separate line for the staff and working costs of the NCA. Office space, IT support, HR support and general logistics are provided by the SPF Economies.	
Are the criteria for appointment and removal of the head/board members clear and transparent?	No		
<b>GOVERNANCE OF THE COMPETITION AUTHORITY</b>			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	The president is appointed independently by the King. <i>See</i> article 12(1) of APEC. The general assembly of the Council shall be composed of twelve councilors. The president, vice-president and four councilors shall exercise their functions on a full-time basis. The Directorate General is governed by the director general.	
Are the heads appointed by a minister?	No	Appointed by the King, who is the head of Belgium.	
Are the heads appointed by representatives of more than one government branch?	No		
Is there a fixed period during which removal is prohibited?	Yes	Six years.	
Is the tenure of the heads renewable?	Yes	No limit specified.	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	The director general and the councilors must hold a master’s degree.	
<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	Competition Council is located on Boulevard du Roi Albert II / Koning Albert II-laan 16, 1000 Brussels. The Directorate-General for Competition is part of the Ministry of Economic Affairs and is located in North Gate III, Bd. Du Roi Albert II, 16, 1000 Brussels.	

<b>POLICY-MAKING AGENTS</b>			
<b>-DIVERSIFICATION-</b>			
How many agencies are responsible for competition enforcement?	One agency	One agency composed of two bodies: the Directorate General for Competition (a directorate general in the Federal Public Service for the Economy, SmEs, self-employed and Energy - Ministry of Economic Affairs) and the Competition Council.	
What is the scope of the mandate on competition policy enforcement for each of the agencies?	Directorate General for Competition	It investigates: (1) Restrictive competition practices; (2) Mergers who fall within the scope of the competition legislation. Its main powers are: (i) to contribute to the making and enforcement of competition policy; (ii) to take part in legislative work; (iii) to advise; to answer questions from the government and other parties; (iv) to represent Belgium in all European and international competition policy organizations (ECA, OECD and UNCTAD).	
	Competition Council	It decides the cases on the basis of motivated reports presented by the College of Competition Prosecutors with the assistance of the Directorate-General for Competition. It also decides on appeals against decisions of sector regulators.	
Do sector regulators have competition policy enforcement mandate?	Energy, Telecommunications and Rail Transport Authorities	Although industry-specific regulators have no power in respect of the Competition Act, these authorities have powers in respect of the market behavior of operators in the relevant sectors. To avoid risks of concurrent jurisdiction, the Belgian competition legislation has sought to rely on three distinct mechanisms. First, decisions rendered by sector regulators in the field of electronic communications and post (the sector-specific regulator is the IBPT) and in the field of gas and electricity (the sector-specific regulator is the CREG) shall be appealed before the Competition Council. Second, the legislation delineates areas of exclusive jurisdiction for the Competition Council. And third, the Competition Council may address opinions to the IBPT.	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	Telecommunications regulator	No	
	Energy regulator	No	
	Transport regulator	No	
	Other	No	
<b>POLICY DUTIES</b>			
Does the Competition Authority have exclusive mandate on competition or multiple mandates	Exclusive competition mandate	X	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		<b>Other mandates:</b> Not applicable.	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>Law Enforcement</b>			
Does the Competition Authority have powers to investigate cartels?	Yes		
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes		
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes		
Does the Competition Authority have powers to accept leniency applications?	Yes	<i>See article 77 of APEC.</i>	
Does the Competition Authority have powers to accept seek criminal punishment?	No		
<b>Advocacy</b>			
Can the Competition Authority issue opinions on draft legislation?	Yes	The Directorate General shall prepare Belgian legislation and regulations on economic competition. The opinions are binding.	
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	Yes		
<b>Rulemaking</b>			
Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	√	Guidelines on the calculation of fines.
		√	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	The Directorate General can conduct all studies it deems useful. The College of Competition Prosecutors (a body within the Competition Council) is empowered to search for all useful information and carry out the necessary inquiries for the purpose of the application of the Competition Act.	

Can the Competition Authority report to the legislature on the results of market studies?	Yes	
<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?	No	
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	