The Output®

QUARTERLY BULLETIN

2nd Quarter 2021

ACTECON

Initial Findings of Consumer Internet of Things Sector Inquiry: Main Areas of Concern

TRY 480 million for De Facto Exclusivity in Ice-cream Market (Unilever)

Validity of the Explicit Consent Text and Privacy Notice at a Glance (Insurance Company case)

The Terminated Anti-Dumping Investigation Regarding the Imports of Float Glass from Israel

On the Way to Improving the Horizontal Agreements Policy in the EU

Turkey to Register Certain Products upon Exportation

E-Platforms Under Scrutiny

Data Breach Notification by Cryptocurrency Exchange BtcTurk

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Dear reader,

We do not want to claim that this issue is devoted to e-commerce, as it is not the exclusive focus of it, however, we will not deny that e-commerce has been among the central topics in the second quarter of 2021. In parallel with the initial findings of consumer internet of things sector inquiry in the EU, there have been several developments in Turkey in this regard as well. Take for instance, Google case in relation to local search and accommodation price comparison services, the interim measures request in the market for online second-hand book sales in Nadirkitap case, as well as the E-Marketplace Platforms Sector Review Preliminary Report.

As the Chairman of the Turkish Competition Authority Mr. Birol Kule mentioned in his speech at the E-Commerce Council in April 2021, digital platforms today serve more than half of total consumption; hence, non-discriminatory access conditions and transparency thereof are of utmost importance for not disrupting general commercial activities. The TCA is developing specific legislation reforms and policy tools to enhance competition for all the actors on the platforms for markets where big digital platforms play the role of "gatekeeper."

It was also stated that novelties such as defining platforms with market power according to certain criterion and evaluating them based on their business models, making presumptions stricter in concentrated sectors, imposing certain obligations on platforms, and structuring burden and standard of proof in an efficient way would pave the way for efficient intervention of the competition authorities in the new era. Further, the Chairman stated that there is a need for ex-ante regulations in Turkey.

Considering the above, we sense new rules coming in relation to e-commerce in the (very) near future.

In the meantime, we draw your attention to the interesting cases of this issue of the Output, not limited to e-commerce.

Kind regards,

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In this issue:

Interim Measures Request in the Market for Online Second-Hand Book Sales (Nadirkitap)

*On 14 June 2021 the Turkish Competition Authority ("**TCA**") evaluated the requested interim measures in relation to Nadirkitap Bilişim ve Reklamcılık A.Ş. ("**Nadirkitap**") allegedly violating Article 6 of Law of Turkey No. 4054 on the Protection of Competition ("**Competition Law**"). It was concluded that there was no definite determination that the Nadirkitap's practices were likely to cause irrecoverable damages, hence the request for interim measures was denied.*

In the application, interim measures were requested based on the allegation that Nadirkitap had abused its dominant position. Netartı Bilgi Teknolojileri A.Ş. ("**applicant**") claimed that Nadirkitap had violated Article 6 of the Competition Law by complicating the rival undertakings' activities by not providing the data of sellers who wanted to market their products through competitor intermediary service providers.

In the application, the applicant requests interim measures in accordance with the fourth paragraph of Article 9 of the Competition Law by claiming the following:

- they operated as intermediary service providers in the second-hand book market,
- the intermediary service providers did not have any right to the book information entered by the second-hand booksellers in accordance with the first paragraph of Article 9 of Law No. 6563 on the Regulation of Electronic Commerce,
- Nadirkitap refused to give the data entered into the system of "www.nadirkitap.com" to the data owners and thus complicated the activities of its competitors,
- their ability to continue their commercial activities would be completely eliminated due to the defendant's ongoing behaviour, and
- irrecoverable damage would occur.

As a result of the examination regarding the alleged behaviour of Nadirkitap, it was unanimously decided that there was no need to apply an interim measure in accordance with the fourth paragraph of Article 9 of the Competition Law since it was concluded that there was no definite determination that the Nadirkitap's practices were likely to cause irrecoverable damages.

TRY 480 million for De Facto Exclusivity in Ice-Cream Market (Unilever)

On 20 May 2021 the TCA published its reasoned decision No 21-15/190-80 *regarding the investigation into the alleged violation by Unilever San. ve Tic. Türk AŞ. ("**Unilever**") of Articles 4 and 6 of the Turkish Competition Law by means of creating de facto exclusivity by preventing the sale of competing products at the final sales points through various discount schemes.*

In its assessment of the alleged violation of Article 4 (anticompetitive agreements), referring to its prior decision No 08-33/421-147 dated 15 May 2008 ("**2008 Decision**"), the TCA reminded that Unilever's exclusivity requirements and practices in the contracts it signed with the sales points were prohibited under this decision since they constituted an infringement of effective competition in the industrial ice cream market. Subsequently, the TCA concluded that with the agreement signed between Unilever and Getir Perakende Lojistik AŞ ("**Getir**") executed on 29 June 2015 and which was in force for four years and five months, Unilever prevented the sale of its competitors' ice cream products through the Getir platform and thus imposed a non-compete obligation, which therefore constituted a violation of the TCA's 2008 Decision.

In its assessment of the alleged violation of Article 6 (abuse of dominance), the TCA concluded that the statement "*the seller accepts and undertakes that it will use the cabinet only for the sale and storage of Unilever ice cream/flavoured ice varieties*" in contracts de facto restricts competition in the industrial ice cream market, especially at sale points with a closed sales area of 100 m² or less, by preventing these points from working with another undertaking. As in the previous decisions of the TCA on the subject of product availability, the concern that cabinet exclusivity will lead to de facto exclusivity in terms of the industrial ice cream market has been limited to sales points smaller than 100 m2. The reason for such scope of application is the TCA's desire to establish intra-point competition in the market especially in the context of sales points where the number of cabinets cannot be increased due to space restrictions.

In line with these assessments, the TCA decided (**i**) to impose a total administrative fine of approximately TRY 480 million on Unilever for its violations of Articles 4 and 6 of the Law, and (**ii**) that the agreements governing the use of Unilever's ice cream cabinets should be amended in such a way as to ensure that the visible portion of the cabinet and 30% of the total cabinet volume at the sale points (which have a closed net sales area of 100 m2 or less and in which there is no other ice cream cabinet that consumers can access directly besides that of Unilever) are allowed to be used by competing products.

Google Fined in Turkey for Local Search and Accommodation Price Comparison Services

*On 14 April 2021, the TCA concluded its investigation concerning allegations that the economic unity consisting of Google Reklamcılık ve Pazarlama Ltd. Şti., Google International LLC, Google LLC, Google Ireland Limited, and Alphabet Inc. ("**Google**") infringed its dominant position in general search services to exclude competitors by giving prominence to its own local search and accommodation price comparison services. The TCA decided to impose TRY 296,084,899.49 administrative fines on Google for infringement of Article 6 of the Turkish Competition Law.*

The reasoned decision has not been published yet. According to the TCA›s short decision:[1]

- Google holds a dominant position in the general search market, and
- it has infringed Article 6 of the Turkish Competition Law by placing its own local search and accommodation price comparison services in a more advantageous position in terms of location and display compared to its competitors and by hindering the entrance of local search websites into the Local Unit, hindered the activities of its competitors, and distorted competition in the local search services and accommodation price comparison services market.

Thereby, pursuant to Article 16(3) of the Turkish Competition Law and the provisions of the Regulation on Fines to Apply in Cases of Agreements, Concerted Practices, and Decisions Limiting Competition and the Abuse of Dominant Position, an administrative fine of TRY 296,084,899.49 was imposed on Google.

Lastly, the TCA stated that Google shall (**i**) subsequent to the receipt of the reasoned decision within 6 (six) months, facilitate conditions for rival local search services and accommodation price comparison services no less advantageous conditions on Google›s search result page than Google›s own relevant services, and (**ii**) periodically provide yearly reports to the TCA, subsequent to its first implementation of the compliance measures, for a duration of five years.

1 https://www.rekabet.gov.tr/tr/Guncel/google-reklamcilik-ve-pazarlama-ltd-sti--b127c3cc1e9deb11812e00505694b4c6 (available only in Turkish), accessed 20 April 2021.

E-Platforms Under Scrutiny

On 7 May 2021 the TCA published the Preliminary Report within the scope of its "E-marketplace platforms sector examination."[1] *The Report was open to public opinion in relation to the findings, evaluations, and policy recommendations. To ensure that the benefits of e-marketplaces, which have entered into a rapid growth trend in recent years and become the leading actors of e-commerce in Turkey, to protect consumers and sellers in the long term, the TCA will determine the possible competition problems in the sector and determine effective policy tools to combat them.*

The Report states that especially due to Covid-19 and developments in digital markets in recent years, the preferences and demands of consumers have led to a significant increase in e-commerce and thus e-marketplaces, which has resulted in the necessity to analyse the sector in detail. This Report is also important in that it discusses the notion of "gatekeepers" for the first time.

The Report presents an explanation of the market structure as well as competitive concerns, which are later clarified by putting forth several policy recommendations to maintain a beneficial environment for both consumers and sellers in terms of the use of e-marketplaces. The market structure has been indicated by covering the most prominent e-marketplaces in Turkey, in which "Trendyol" (as the leader) and "Hepsiburada" are leaders.

The TCA carries out economic analyses of e-marketplaces in terms of their network effect, multi-homing characteristic, and data-driven mechanism. It has been argued that since e-marketplaces serve to bring sellers and consumers together on a platform, the rapid increase in the number of consumers performing purchasing activities on e-marketplace platforms has resulted in a positive network effect. However, in case of any failure in meeting the demands of consumers, a negative network effect (such as delivery delays) is created due to the large number of consumers. Multi-homing is addressed as another characteristic of the market that indicates the choice of multiple platforms given to consumers for their purchases and needs to be limited for competitive concerns. At this point, the Report conveys that the current state of multi-homing cannot completely balance the network effect advantage created in favour of Trendyol and Hepsiburada. Additionally, the data-driven mechanism reflects the competitive side of e-marketplaces as the excessive database of consumers and sellers has the potential to give them an unfair competitive advantage, which makes it necessary for the TCA to examine and control the data use in these markets.

Several competitive concerns in terms of e-marketplaces can be listed as structural and include creating a barrier for newcomers to enter the market and tipping in the market due to the risk of a strong network effect. In addition, some other competitive concerns have been reflected as a result of the practices of platforms such as inter-platform competition, where the Most-Favored Consumer ("MFC") clauses and contractual or de facto exclusivity requirements of e-marketplaces are the most controlled issues and intra-platforms competition, where the control of platforms' self-preferencing and unfair commercial practices are significant for an orderly market.

For the purpose of maintaining a market without competitive concerns, the Report underlines three policy recommendations: revising and updating the secondary legislation to eliminate the ambiguities in the implementation of the existing competition law rules in terms of platforms, constituting a "Platform Code of Conduct" regulation to serve as a reference in bilateral relations for the asymmetric bargaining power that dominates the sector in general, and implementing the behaviours undertakings identified as gatekeepers are obliged to avoid with an ex-ante legal regulation.

Although e-marketplaces are not described as a problem for fair competition, the TCA's Report highlights the importance of issues to be considered, providing a clear and understandable analysis for everyone concerned in e-marketplace platforms.

1 The Preliminary Report phase was completed within the scope of the "E-Marketplace Platforms Sector Examination" initiated in September 2020. It is available at https://www.rekabet.gov.tr/Dosya/geneldosya/e-pazaryeri-si-on-rapor-teslim-tsi_son-pdf

The TCA Blocks Marport Merger following SIEC Test Application

On 2 March 2021 the TCA blocked the acquisition of Marport Liman İşletmeleri Sanayi ve Ticaret Anonim Şirketi's ***("Marport")*** *sole control by Terminal Investment Limited Sàrl ("**TIL**"). The TCA concluded that the transaction would result in a significant impediment of effective competition and thereby should not be allowed. This is the first merger decision the TCA has blocked since its adaptation of the SIEC test following the reform of the Turkish Competition Law.*

The notified transaction consisted of TIL›s acquisition of 50% of the shares owned by TIL in Marport (which carries out its activities at Ambarlı Port). TIL currently holds 50% of the shares of Marport.

The TCA first examined whether the transaction at hand had been subject to notification pursuant to Merger Communiqué 2010/4. It held that since the transaction involved a transition from joint control to sole control, it had consisted of a concentration within the framework of Article 5 of the Turkish Competition Law. The turnover thresholds determined under the Turkish Competition Law had been met, hence the transaction was subject to notification.

Article 7(2) of the Turkish Competition Law was amended in June 2020 and currently states:

> *It is illegal and prohibited for one or more undertakings to merge, or for an undertaking or a person to acquire - except by inheritance - assets, or all or part of the partnership shares, or instruments conferring executive rights over another undertaking, where these would result in a significant impediment of effective competition within a market for goods or services in the entirety or a portion of the country, particularly in the form of creating or strengthening a dominant position.*

The amendment introduced the "significant impediment of competition test" ("SIEC test"). The TCA stated in its decision that, besides creating or strengthening a dominant position, the SIEC test also can prohibit transactions that result in a significant lessening of effective competition. The difference between the SIEC test and the dominance test arises in situations in which, post transaction, the undertakings can increase prices unilaterally where a dominance is not created or strengthened. In other words, the SIEC test is used in situations even if the transaction does not create a dominant position or coordination effects in the relevant markets.[1]

In its decision, the TCA stated that the transaction created a horizontal overlap in the port management market for container handling and a vertical overlap in the container line transport market. As a result, by considering

- the high HHI numbers, which are said to reach to 4573 with an approximate 1187 increase, thereby further strengthening the tight oligopolistic structure of the market and potentially cause price hikes through lessened competition;
- capacity constraints; and
- that as a result of the transaction Marport, which holds a prominent position in container handling in Northwestern Marmara and Asyaport, a very important future alternative to Marpot will be controlled by the same undertaking,

the TCA held that the transaction would result in a significant impediment of effective competition pursuant to Article 7 of the Turkish Competition Law.

1 TCA decision number 20-37/523-231, para 111, 13 August 2020.

Initial Findings of the Consumer Internet of Things Sector Inquiry: Main Areas of Concern

*On 9 June 2021 the European Commission ("***Commission***" or "***EC***") published the initial findings of its sector inquiry into the rapidly-growing Internet of Things ("IoT") sector which it initiated on 16 July 2020 ("Report"). With this sector inquiry, the Commission aims to gain a better understanding of the consumer IoT sector, its competitive landscape, developing trends, and potential competition issues. As referenced in the Report, the overall consumer IoT revenue worldwide is expected to grow from EUR 105.7 billion in 2019 to approximately EUR 404.6 billion by 2030.*

The Report, in brief, finds that,

- an increasing number of devices and services are becoming "*smart,*" which emphasizes the importance of voice assistants as they represent the fastest developing interface for users to access the web, use and control smart devices, and access consumer IoT services,
- the cost of the technology investment is seen as a particularly important barrier to entry in the market for voice assistants. Accordingly, as it is unlikely that there will be new entrants in the market in the short term, most businesses focus on expanding the accessibility of their smart devices and consumer IoT services via the existing general-purpose voice assistants,

therefore, the leading technology platforms, namely Amazon, Apple, and Google, hold bottleneck positions in the consumer IoT sector.

In addition, the Commission identified certain main areas of concern in the general-purpose voice assistants aspect of the IoT sector of which Alexa, Google Assistant, and Siri are the most popular:

- Exclusivity and default-setting practices make switching between different consumer IoT service providers (*multi-homing*) more difficult.
- The considerable amounts of data collected by voice assistants and smart device operating systems enable these undertakings not only to control the data flow and user relationships but also to leverage into adjacent markets.

The limited interoperability between different providers in consequence of technology fragmentation, lack of common standards, and the prevalence of proprietary technology could lock users into the products and services of the same provider and limit consumer choice.

On the Way to Improving the Horizontal Agreements Policy in the EU

On 6 May 2021 the EC, as part of the policy review launched in July 2019, published a Staff Working Document in relation to the horizontal block exemption regulations (i.e. R&D and Specialization Agreements BERs) together with Horizontal Guidelines. The review will expire on 31 December 2022.

The evaluation of the policy aims at determining whether the mentioned documents should be revised, should lapse, or be prolonged as they are. According to the findings, the rules on horizontal agreements are useful for business. The Horizontal Guidelines remain relevant. The EC will revise the rules to adapt them to digitalization and sustainability (Green Deal) goals. Some of the provisions are viewed as complex and unclear (e.g., in relation to information exchanges, commercialization and standardization agreements, R&D, and production agreements), so the EC will work on those in particular.

Additionally, the scope of the Specialization BER is viewed as too narrow and more clarity is needed. The conditions for exemption in the R&D BER do not allow for the identification of all the pro-competitive agreements. Market share thresholds are too low to exempt all horizontal agreements that fall under Article 101(3) of the TFEU. The Horizontal Guidelines do not provide sufficient legal certainty for the self-assessment of certain agreements (that are not covered by a dedicated chapter, e.g., data sharing and pooling or network sharing agreements).

Addressing these issues would significantly improve the legal certainty and simplify the supervision by the NCA and courts. Following the launch of the impact assessment phase, the interested parties will be able to comment on the inception impact assessment. The draft of the revised rules for the public consultation is planned to be published at the beginning of next year.

EC's Evaluation Report on the Operation of the Motor Vehicle Block Exemption Regulation

*On 28 May 2021 the EC published its Evaluation Report on the Operation of the Motor Vehicle Block Exemption Regulation ("**Report**") on its website whereby it assessed the functionality of Motor Vehicle Block Exemption Regulation ("**MVBER**"). The Report's overall assessment was that MVBER was appropriate to the objectives intended by the legislative purpose in general terms. Therefore, the EC set forth that comprehensive changes did not need to be made to the current rules.*

In December 2018, the EC launched a review of the MVBER, which will expire on 31 May 2023. During the evaluation phase of the review, the EC conducted an in-depth fact-exercise and collected evidence to understand how the rules have functioned since their adoption in 2010. The Report shows that the competitive environment in the motor vehicle markets has not changed significantly since the EC last evaluated these markets in 2010, but that the sector is now under intense pressure to adapt in line with the recent developments. Among these developments, the increasing significance of both communications technologies and in-vehicle data, legal regulations on emission rates, and changes to come after the COVID-19 pandemic were considered to be the most important.

Moreover, based on the findings gathered, various implications were put forward as to three markets namely (**i**) motor vehicle distribution, (**ii**) vehicle repair and maintenance, and (iii) motor vehicle spare parts.

Concerning the motor vehicle distribution markets, it was stated that competitive conditions vary depending on the type of vehicle. In this regard, it was highlighted that while competition in passenger cars is vigorous, it is less intense for light commercial vehicles, trucks, and buses.

As for the vehicle repair and maintenance markets, it was indicated that although intra-brand competition within the authorized networks is limited by strict and detailed quality criteria and the large investments that authorized repairers are required to make, independent repairers continue to exert vital competitive pressure on authorized repairers and ensure that consumers can enjoy choice in provision and prices. However, it was highlighted that independent repairs can continue to exert such pressure only if they have access to key inputs such as technical information and vehicle-generated data.

In terms of the motor vehicle spare parts markets, the spare parts market is indicated to be short of alternatives due to certain contractual regulations between the original spare part suppliers and manufacturers that might lead to a decrease in choices for end consumers.

Consequently, the Report's overall assessment is that the MVBER is appropriate to the objectives intended by the legislative purpose in general terms. Therefore, the EC has set forth that comprehensive changes do not need to be made to the current rules. Nevertheless, it was stated that particularly the ability to access to the data has become a competition parameter; hence, policy updates addressing this issue might be needed. The EC will now start the policy-making stage of the review to decide by 31 May 2023 whether to renew, revise, or let lapse the MVBER.

Expensive Misleading Information during the Merck Takeover

On 3 May 2021 Sigma-Aldrich was fined EUR 7.5 million by the EC for providing incorrect or misleading information during Merck's acquisition of Sigma-Aldrich. Accurate information is vital for the EC to assess the deal and take correct decisions as part of the concentration control. Providing correct and non-misleading information is a procedural obligation imposed on companies during the concentration investigation.

The EC conditionally approved the proposed acquisition of Sigma-Aldrich by Merck in 2015. The EC was informed that the innovation project, which was the subject of the divestment commitment, was linked closely to the divested business. The project was not disclosed to the EC. The information about it was also withheld in the replies to information requests, and the provision of incorrect or misleading information was intended to avoid the transfer of the relevant project to the purchaser of the divestment business. These prevented the EC from conducting an informed assessment of the intended scope of the remedies.

The EC found that the company had infringed the law by providing deliberately/negligently incorrect or misleading information in the submission describing the commitments and in replies to the information requests. Despite the decision to fine the company, the authorization of the transaction shall not be affected.

EU Fines Railway Companies for Customer Allocation Cartel

*On 16 March 2021 the EC fined railway companies Österreichische Bundesbahnen ("**ÖBB**"), Deutsche Bahn ("**DB**"), and Société Nationale des Chemins de fer belges/Nationale Maatschappij der Belgische Spoorwegen ("**SNCB**") a total of EUR 48 million for operating a cartel by way of allocation of customers in cross-border rail cargo transport services.*

The infringement concerned cross-border rail cargo transport services in the EU provided by ÖBB, DB, and SNCB under the freight sharing model and carried out in "block trains," i.e., cargo trains shipping goods from one site (such as the production site of the vendor of the transported goods) to another site (such as a warehouse) without being split up or stopped on the way.

Railway companies provide customers with a single overall price for the service required under a single multilateral contract. The three railway companies coordinated by exchanging collusive information on customer requests for competitive offers and provided each other with higher quotes to protect their respective business.

The three companies admitted their involvement in the cartel and agreed to settle the case. ÖBB received full immunity, thereby avoiding an aggregate fine of ca. EUR 37 million. DB and SNCB benefited from a reduction of their fines for their cooperation with the EC. The fine for DB AG was increased by 50% due to its repeated violation (participation in another cartel in relation to freight forwarding).

European Governments Bonds Trading Cartel: Investment Banks Fined EUR 371 million

*On 20 May 2021 the EC decided to fine the Bank of America, Natixis, Nomura, RBS (now NatWest), UBS, UniCredit, and WestLB (now Portigon) EUR 371 million for their participation in a cartel in the primary and secondary market for European Government Bonds ("**EGB**").*

NatWest was not fined due to its leniency application and the Bank of America and Natixis avoided fines due to the lapse of the limitation period for the imposition of fines. Portigon, the legal and economic successor of WestLB, received a zero fine due to not having generated any net turnover in the last business year.

The seven investment banks participated in a cartel through a group of traders working at their EGB desks and operating in a closed circle of trust. These traders were in regular contact with each other mainly in multilateral chat rooms on Bloomberg terminals and exchanged commercially sensitive information. "They informed and updated each other on their prices and volumes offered in the run-up to the auctions and the prices shown to their customers or to the market in general. They discussed and provided each other with recurring updates on their bidding strategy in the run-up to the auctions of the Eurozone Member States when issuing Euro-denominated bonds on the primary market, and on trading parameters on the secondary market" (according to the press release).

Anti-Dumping Investigation into the Imports of Polyester Yarns Originating in Korea and Vietnam

*On 2 June 2021 the Ministry initiated an anti-dumping investigation concerning the imports of polyester fully drawn yarns ("**concerned products**")[1] originating in the Republic of Korea ("**Korea**") and the Socialist Republic of Vietnam ("**Vietnam**") through Communiqué No. 2021/28 on the Prevention of Unfair Competition in Imports.*

The investigation was initiated pursuant to a complaint lodged by a domestic producer, namely, Korteks Mensucat Sanayi ve Ticaret A.Ş. ("**complainant**"). The complainant asserted that imports of subject product originating in Korea and Vietnam had been dumped and caused material injury and threat of material injury to the domestic industry.

The Ministry observed that the imports of the concerned products originating in Korea had demonstrated an overall fluctuating trend in 2018-2020 but had increased in 2019 and 2020 compared to 2018. Additionally, the Ministry noted that the imports of the concerned products originating in Vietnam had increased in both absolute and relative terms from 2016 to 2018. It was highlighted that the imports originating in South Korea caused price undercutting, while the imports originating in Vietnam caused price undercutting as well as price depression.

While assessing the domestic industry's economic indicators, the Ministry highlighted that certain economic indicators of the domestic industry regarding the concerned products (e.g., production volume, domestic sales volume and value, export sales volume and value, profit, profitability, capacity usage rate) appeared to have decreased. Lastly, it was evaluated that given their production capacity and export capability, Korea and Vietnam have an important position in the global polyester fully drawn yarns market.

1 Concerned products are classified under HS code 5402.47.

Turkey to Register Certain Products upon Exportation

*Through the amending of Communiqués numbered 2021/3, 2021/4, 2021/5 on the Communiqué Regarding Products Whose Exportation is Subject to Registration (No. Export 2006/7), on 4 June 2021 the Ministry of Trade of Turkey ("**Ministry**") specified certain products that need to be registered upon exportation.*

As a result of the amending communiqués, the following products are subject to registration upon their exportation:

- cotton, neither carded nor combed (classified under HS code 52.01);
- cotton waste, including yarn waste and garneted stock (classified under HS code 52.02);
- cotton, carded, or combed (classified under HS code 52.03);
- pasta (classified under HS code 1902);
- bulgur wheat (classified under HS code 1904.30);
- groats and meal of wheat (classified under HS code 1103.11);
- particleboard, oriented strand board, "OSB" and similar board (classified under HS code 4410);
- fiberboard of wood or other ligneous materials (classified under HS code 4411); and
- wood saws (classified under HS code 4407).

Turkey and Sweden Boosting Bilateral Trade and Investment

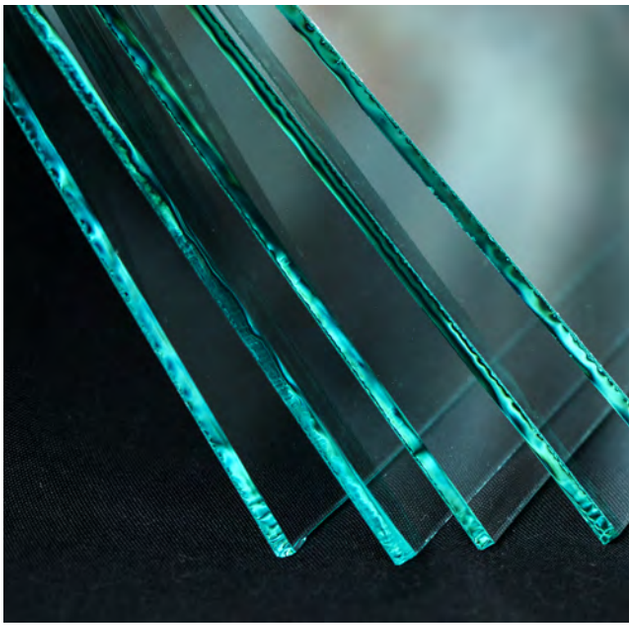
In May 2021 Turkey and Sweden signed the JETCO Protocol, agreeing to boost bilateral trade and investment. During the first Turkish-Sweden Joint Economic and Trade Committee (JETCO) meeting, held online, top officials from both countries spoke on bilateral commercial ties and relations with the EU, in particular updating the Turkey-EU Customs Union as well as the EU's Green Deal.

Also discussed at the meeting were the effects of the pandemic, mutual investments and contracting services, and cooperation in third countries and joint projects. The two countries set a goal to boost the bilateral trade volume to USD 5bn in a balanced way.
Despite the pandemic, last year Turkey's trade volume with Sweden rose compared to 2019, reaching USD 3.1bn. From 2002 up to now, Turkey's investments in Sweden have reached USD 156m, while international direct investment from Sweden to Turkey has totaled USD 385m.

Source https://www.trmonitor.net/turkey-and-sweeden-sign-jetco-protocol/

The Ministry Terminated the Anti-Dumping Investigation Regarding the Imports of Float Glass from Israel

*In consequence of the withdrawal of the complaint lodged by Trakya Cam Sanayii A.Ş. ("**Trakya Cam**"), on 7 April 2021 the Ministry terminated the anti-dumping investigation concerning the imports of float glass[1] originating from Israel.*



The investigation was initiated by the Ministry on 23 June 2020 through Communiqué No. 2020/10 on the Prevention of Unfair Competition in Imports, pursuant to a complaint lodged by Trakya Cam claiming that the imports of float glass originating in Israel had been dumped and thereby caused material injury and/or threat of material injury to the domestic. However, Trakya Cam decided to withdraw its complaint and thus in accordance with the Addendum Article 1 of the Law on the Prevention of Unfair Competition in Imports, the Ministry decided to terminate the investigation without imposing any anti-dumping duties.

1 The product subject to investigation was "float glass and surface ground and polished glass," classified under HS Code 7005.29.

Communication on the WTO and COVID-19 Vaccines

On 23 March 2021 a delegation of Turkey along with delegations from Australia, Canada, Chile, Colombia, Ecuador, New Zealand, Norway, and Ecuador circulated a communication aiming at enhancing the role of the World Trade Organization in the global effort toward the production and distribution of COVID-19 vaccines and other medical products.

The document emphasizes an urgent need to further enhance the international effort to promote the rapid, global, and equitable distribution of affordable, safe, and effective COVID-19-related medical products, and vaccines in particular, with a view to limiting the impact of the pandemic on people, economies, and societies.

The WTO possesses considerable convening power. The WTO should make use of its resources rapidly to the full extent to foster a prompt, pragmatic, and tangible acceleration in the global response to COVID-19, and particularly the global distribution of COVID-19 vaccines.

The director-general of the WTO is encouraged to promptly convene and hold discussions with both vaccine developers and vaccine manufacturers, as well as developers and manufacturers of other COVID-19-related medical products in coordination with the World Health Organization and other relevant organizations.

Source: https://web.wtocenter.org.tw/DownFile.aspx?pid=353866&fileNo=0

Validity of the Explicit Consent Text and Privacy Notice at a Glance (Insurance Company case)

*On 18 May 2021 the Turkish Data Protection Board ("**Board**") published a decision, dated 20 April 2021 and numbered 2021/389, in which it evaluated the validity of the explicit consent text and privacy notice upon the complaint of an individual. The decision concerns the prerequisite to allow the processing of personal data by an insurance company ("**Company**") for the complainant to access his insurance policy information.*

The Board stated in the decision that within the scope of the individual pension agreement, the complainant had been obliged to allow the processing of his personal data, and in case of the decline, his access would not be allowed by the website of the Company.
Further to its evaluations, the Board stated that in case one of the conditions other than taking the explicit consent of the data subject exists, taking the explicit consent would be incompliant with Article 4 of the Law on the Protection of Personal Data ("**Law**"), and since the case was that, fined data controller with an administrative fine of TRY 250,000.

In addition, the Board instructed the data controller on two points regarding the validity of explicit consent text. Since the Company demands one single consent for both privacy notice and explicit consent texts, which is evaluated as being contrary to the Law, the Company has been instructed to prepare a privacy notice and explicit consent texts separately and notify the Board of the latter. Secondly, considering the privacy notice contains ambiguous wordings, the Company has been instructed to eliminate such ambiguity, in compliance with the Communique on Principles and Procedures to be Followed in Fulfillment of the Obligation to Inform.

Data Breach Notification by Cryptocurrency Exchange BtcTurk

*Eliptik Yazılım ve Ticaret AŞ ("**BtcTurk**"), which is the biggest local cryptocurrency exchange company in Turkey, made a data breach notification as a data controller to the Turkish Data Protection Board on 18 May 2021. In the relevant notification, BtcTurk stated that an unidentifiable hacker group had shared the personal data of people obtained from its systems on an illegal data sharing website. BtcTurk said that it had become aware of such breach through the posts in which it was tagged on social media platforms and initiated an examination of the issue.*

Upon the examinations and audits, the data exposed in the respective breach were thought to be found in a dataset taken out of the datasets of BtcTurk prior to the execution of data transfer agreements lawfully made with business partners. In addition, it is reported that the respective breach had occurred due to a security violation that had taken place in one of the datasets taken outside in July 2018.

The affected data are indicated as the Identity data (name-surname, date of birth, Turkish Identity Number and User numbers/IDs) registered in BtcTurk systems, the contact data of users for the pre-breach period (e-mail address, mobile phone number, address) registered in BtcTurk systems, the transaction security data of users registered in BtcTurk (users' IP address for the period covering the pre-breach period, users' last date of login to their BtcTurk accounts prior to the breach, the users' login passwords for the period prior to the breach, which are irreversibly masked with the PBKDF2 algorithm with current technological means). Finally, the number of users affected from the breach was stated to be 516,954.

Internet Services Provided by Municipalities and the Data Protection Law

*The Turkish Data Protection Board evaluated whether accessing the real estate information of citizens only by entering the ID number on the inquiry pages of municipalities on the Internet for property tax or declaration information is a problem in terms of the protection of personal data. The issue was examined within the scope of the Turkish Law on the Protection of Personal Data No.6698 ("**Law**").*

As a result of the investigation initiated on the subject, the Board decided that:

- access to systems containing personal data should be limited, access authorization to the extent necessary for their authorization and responsibilities, and access to relevant systems shall be possible by using a username and password, and two-stage remote access.

- the tax payment services provided by some municipalities on the Internet are carried out by logging into the system with membership and password or double verification, and that these applications are in compliance with the Law, but for information about debt payment.

- Although it is not possible to access information about the name or property of the person, it is understood that it is possible to access information about the debt, and this is in violation of the provision in sub-clause (b) of paragraph 1 of Article 12 of the Law.

- It is necessary to increase data security on the query pages regarding real estate tax, declaration information or similar services offered by municipalities instead of applications for providing access to debt or real estate information by entering only one piece of information (such as TR ID number, tax number). Taking administrative and technical measures, in this context, for example, entering the TR ID number or tax number in a way that allows double-layer verification, as well as requesting different personal data from individuals, choosing methods such as SMS verification, membership.

Yemeksepeti Notifies Data Infringement - 21,504,083 Persons Affected

*On 29 March 2021 Yemek Sepeti Elektronik İletişim Perakende Gıda Lojistik AŞ ("**Yemeksepeti**") announced that it had fallen victim to a cyberattack and the personal data of users had been stolen. Yemeksepeti stated that the attackers did not access any financial data (including credit cards) or password. The data stolen by the attackers are said to be as follows: name-surname, date of birth, phone numbers, e-mail addresses, address information registered to Yemeksepeti, and passwords masked by SHA-256 algorithm. Yemeksepeti notified the Turkish Data Protection Authority about the infringement.*

The popular online food delivery service Yemeksepeti was launched 15 years ago and today, it is a very popular brand in Turkey. As per the media reports , Yemeksepeti's shares were acquired entirely by Delivery Hero with a valuation of 589 million dollars. The CEO of Delivery Hero Niklas Östberg have stated *"[Yemeksepeti] is an extraordinary company, and I can't express enough my excitement that they will join the Delivery Hero family. I'm particularly grateful that Nevzat will not only continue to lead Yemeksepeti,but will also strengthen our team with his invaluable expertise and experience."* Therefore, after the acquisition, Yemeksepeti's CEO Nevzat Aydın retained his role as the CEO.

As known, Article 12(5) titled "obligations concerning data security" of the Personal Data Protection Law numbered 6698 ("**KVKK**") states that in case "the data processed are obtained by others by unlawful means, the data controller shall communicate the breach to the data subject and notify it to the Board within the shortest time. Where necessary, the Board may announce such breach at its official website or through in any other way it deems appropriate."

The situation can be summarized as follows:

- On 18 March 2021, unidentified person or persons gained access to a web application server owned by Yemeksepeti.
- The application, which under normal conditions raise alarm when unauthorized access has occurred, recorded a problem; however, the unauthorized access was not detected due to a malfunction.
- When the alarms raised were scrutinized on 25 March 2021, the suspicious situation was detected.
- 21,504,083 persons were affected by the breach. The affected data were identified as username, address, phone number, e-mail address, IP information and credit card or financial data were not affected due to them having been stored on Mastercard, independent of the data controller.

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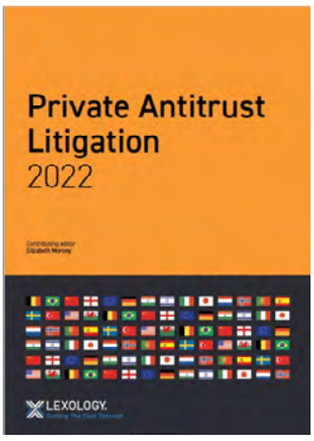

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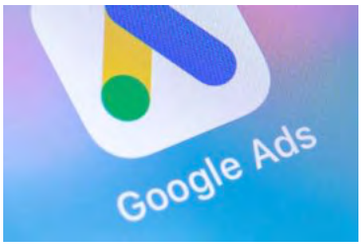

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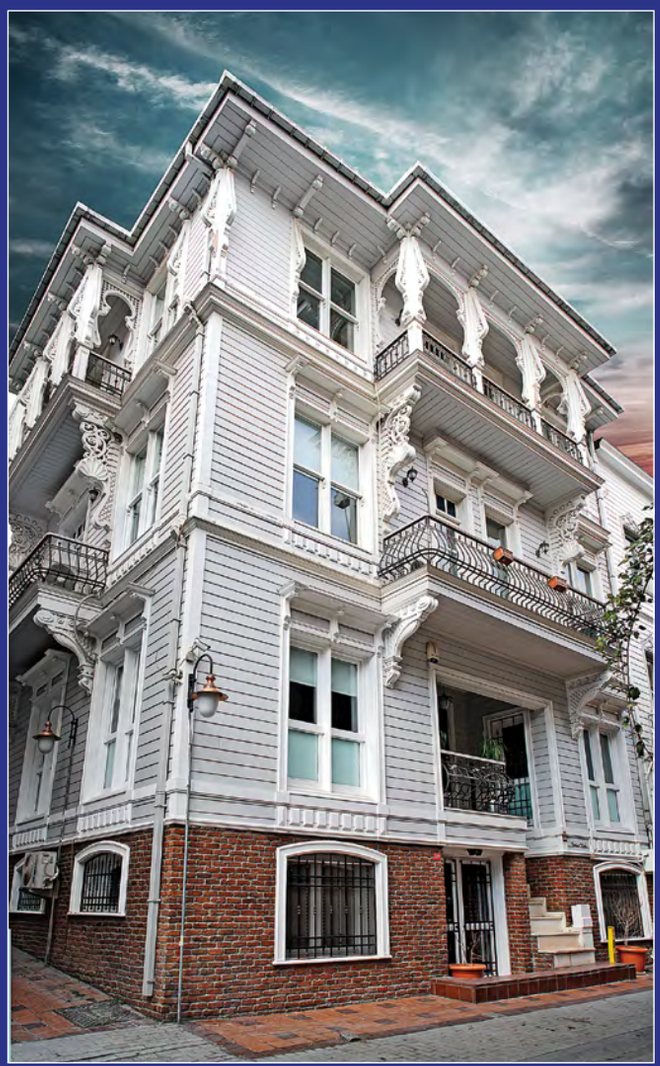

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