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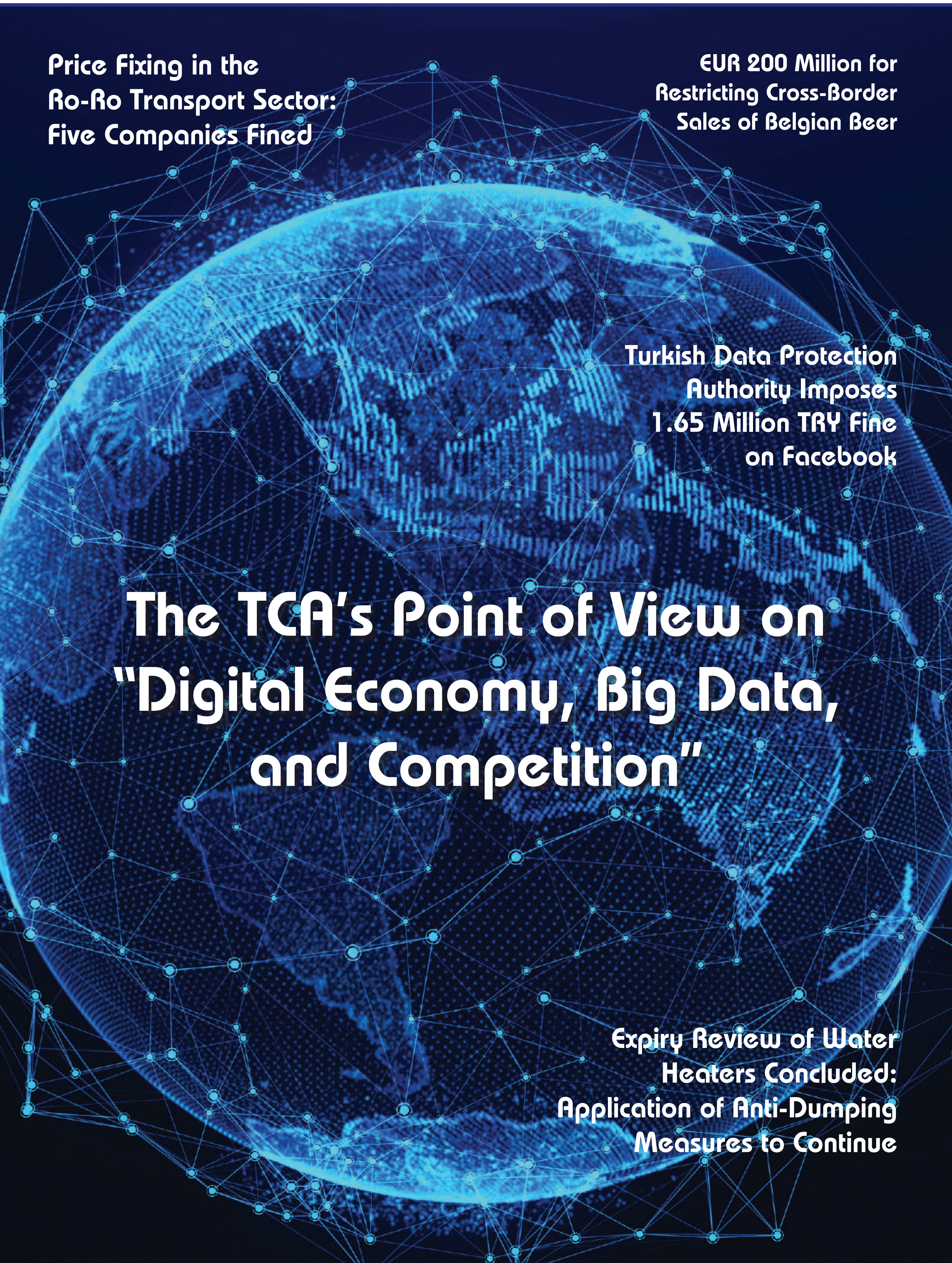

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The TCA's Point of View on "Digital Economy, Big Data, and Competition"

In May 2019 the President of the Turkish Competition Authority ***("TCA")*** *Prof. Dr. Ömer Torlak delivered a speech titled "Digital Economy, Big Data, and Competition" at the traditional Wednesday Seminar organized in cooperation with the Turkish Data Protection Authority* ***("DPA")****. It was noted that there is a strong relationship between competition law and personal data protection and the TCA will further increase its cooperation with the DPA. The seminar is the first event of the cooperation between the two institutions and mutual work will continue.*

Torlak stated that "Uber, one of the leading companies of the digital economy, is the biggest taxi company although it does not own any taxis. Facebook, which uses the digital footprints we give, is the most popular social media and does not produce any content. Amazon is the most valuable retailer without fixed investment. Airbnb is the biggest accommodation provider without owning any real estate. In the future, the number of digital economies will increase."

Torlak stressed that using artificial intelligence with big data and algorithms is inevitable and that the transformation of markets should be guided according to consumer demand. He went on to say that the regulations to be made should be efficient, proportional, consistent, and flexible, adding that capacity building is necessary for big data analysis and practice. The two organizations attach importance to strengthening end users and increasing awareness for seeking rights protection.

In conclusion, the TCA's view on the topic may be summarised as follows:

- There is a strong relationship between competition law and the protection of personal data.
- Economies are moving towards physical places to virtual environments. Competition authorities take measures at the macro level to protect consumers.
- Big data brings big power. Within this framework, there are serious issues concerning competition law.
- Cooperation between the TCA and DPA is crucial.

Home Furniture Market under the Scrutiny of the TCA Once Again

On 8 May 2019 the TCA launched an investigation into home furniture companies allegedly in violation of Law No. 4054 on the Protection of Competition ***("Turkish Competition Law")*** *via resale price maintenance* ***("RPM")****.*

Upon the court judgment, the TCA re-evaluated the claim stating that Article 4 of the Turkish Competition Law had been violated via RPM regarding Bellona brand products.

The preliminary inquiry, made previously due to the said complaint, had examined the practices in question, following which the TCA had rejected the complaint and decided not to initiate an investigation. However, the TCA's decision was annulled by a court judgment in October 2018.

After discussing the information and documents and considering the issues laid down in the relevant court judgment, the TCA decided to investigate the activities of Boydak Holding, Boytaş Mobilya, and Yön Dayanıklı Tüketim furniture companies.

Price Fixing in the Ro-Ro Transport Sector: **Five Companies Fined**

On 18 April 2019 the TCA concluded its investigation into the activities of five undertakings dealing with ro-ro transport in Turkey, the Ambarlı-Bandırma and Ambarlı-Topçular lines, and the Cabotage Line Ro-Ro and Ferryboat Operators Association. It found that the five undertakings concerned violated Article 4 of Turkish Competition Law by fixing prices charged to transporters. Additionally, one of the undertakings was fined for failure to provide complete information to the TCA during the course of the investigation.

İstanbul Deniz Otobüsleri Sanayi ve Ticaret A.Ş., İstanbul Deniz Nakliyat Gıda İnşaat Sanayi Ticaret Ltd. Şti., İstanbullines Denizcilik Yatırım A.Ş., Kale Nakliyat Seyahat ve Turizm A.Ş. and Tramola Gemi İşletmeciliği ve Ticaret A.Ş. were found to have violated Article 4 (Agreements, Concerted Practices and Decisions Restricting Competition) of the Turkish Competition Law.

The undertakings concerned received administrative fines in the total amount of TL 7,404,850.77. İstanbullines

Denizcilik Yatırım A.Ş. received additional administrative fines amounting to 0.1% of its annual gross revenues generated at the end of the financial year 2017 for providing incomplete information during the investigation.

The Cabotage Line Ro-Ro and the Ferryboat Operators Association were found to be in compliance with Article 4 of the Turkish Competition Law.

TCA Investigation into Novartis Closed: **No Abuse of Dominance Found**

On 12 April 2019 the TCA concluded its investigation into whether the pharmaceutical company Novartis Sağlık Gıda ve Tarım Ürünleri San. ve Tic. A.Ş. violated the Turkish Competition Law by abusing its dominant position via refusal to supply goods to Çınar Ecza Deposu ve Dış Tic. A.Ş., and by preventing competition on the wholesale level by obliging the pharmaceutical warehouses with which it worked not to make sales to other pharmaceutical warehouses.

Considering all the evidence, information, and documents collected, the report prepared, and the written defense, the TCA decided unanimously that Novartis Sağlık Gıda ve Tarım Ürünleri San. ve Tic. A.Ş. and Alcon Laboratuvarları Tic. A.Ş. did not violate Turkish Competition Law.

Judicial review for the decision before the Ankara Administrative Courts is possible within 60 days of the notification of the reasoned decision.

Remedies Offered to the EC Address Competition Concerns in Turkey: TCA Signals Conditional "Green Light" for Embraco/Nidec Transaction

On 4 April 2019 the TCA approved the acquisition by Nidec Corporation of sole control over Embraco, the compressor manufacturing branch of Whirlpool, on the condition that the commitments offered to the European Commission ("EC") are fulfilled. The case is a great example of a multijurisdictional merger and of effective cooperation between authorities at the merger remedies stage.

As a result of the final examination of the proposed transaction, the TCA decided unanimously that (i) the transaction was subject to the TCA's authorization, (ii) the commitments offered to the EC were sufficient to eliminate horizontal and vertical overlaps in Turkey in relation to sales of household-type reciprocating hermetic cooling compressors, reciprocating hermetic light commercial cooling compressors, and condenser units. The ruling body concluded that the transaction would not result in the creation of a dominant position, strengthening of a dominant position, or distortion of competition significantly within the framework of the Turkish Competition Law.

Within this framework, it was decided that the transaction shall be authorized on the condition that the commitments submitted to and accepted by the EC were fulfilled.
The transaction was cleared in the EU subject to the following conditions: (i) the divestment of Nidec's refrigeration compressor business for both household and light commercial applications; and (ii) the provision of the purchaser of the divestment business with significant funding for future investments in the facilities.

The TCA's Unstable Approach Towards RPM Practices

Introduction

In May 2019, Turkish Competition Authority ("**TCA**") has published two reasoned decisions, namely *Bfit Decision*[1] and *Minikoli Decision*[2], in which it assesses the resale price maintenance ("**RPM**") activities of the concerned undertakings. These decisions bear significance since they represent the TCA's unstable approach towards RPM activities. In the aforementioned cases, the TCA adopted an *effect-based analysis*, as it generally did in the past. However, the TCA had displayed a deviation from the said approach in its previous two decisions; *Sony* Decision[3] and *Henkel* Decision[4] and adopted a *by object analysis.* Therefore, *Bfit* and *Minikoli* Decisions show this unstable approach.

RPM, in a nutshell, can be defined as; imposition of pressure regarding the sale prices and conditions by the undertakings who are in the position of supplier onto the undertakings who are in the downstream markets such as dealers, distributors or retailers. Such practices are deemed as a violation of competition rules within the context of Article 4 of the Law No. 4054 on the Protection of Competition ("**Competition Law**") and Block Exemption Communiqué No. 2002/2 on Vertical Agreements ("**Communiqué No. 2002/2**").

While assessing whether there exists a violation or not, the TCA has generally been evaluating the effects of the RPM practices on the market. Such approach is called the *effect-based analysis.* In the *Bfit* and *Minikoli* Decisions, the TCA adopted the same approach. However, in the *Henkel* and *Sony* Decisions, the TCA had adopted a relatively rigid approach which does not take the effects of the practices into consideration and ruled on imposition of administrative fines. Such approach deems RPM practices as a violation of Competition Law regardless of their effects on the market. The aforesaid approach is called *by object analysis,* since it takes only the aim of the practice into account.

We will examine the *Bfit* and *Minikoli* Decisions and the TCA's approach on RPM activities in this article.

TCA's Previous Decisions Applying by Object Analysis

In the *Sony* Decision, the TCA decided that Sony Eurasia Pazarlama A.Ş. ("**Sony**") violated Article 4 of the Competition Law via practices of RPM by interfering with its dealers' online sales and restricted competition in the "*consumer electronics*" market. The TCA ruled on an administrative fine amounting to TRY 2,346,618.62 (approx. USD 403,723.379)[5].

In the *Henkel* Decision, the TCA established that Türk Henkel Kimya Sanayi ve Ticaret A.Ş. ("**Henkel**") violated Article 4 of the Competition Law through practices of RPM. The TCA stated in the decision that Henkel restricted competition in the markets of "*beauty and personal care products*" and "*laundry and home care products*" by using various computer programs and internal report systems. The TCA imposed an administrative fine of TRY 6,944,931.02 (approx. USD 1,194,784.51).

The decisions have remarkable common points such as; (**i**) the TCA ruled on imposition of administrative fines contrary to the concerned case handlers' conclusions that there was no need for it in both cases and (**ii**) the

TCA adopted a by object analysis approach which is the opposite of its established effect-based analysis approach, in both of the decisions.

The TCA's Effect-Based Analysis Approach in Minikoli and Bfit Cases
In the *Bfit* Decision, the TCA concluded the preliminary inquiry stating that there was no need to initiate an investigation. Said preliminary inquiry was initiated in order to assess whether the franchise agreements of Bfit Sağlık ve Spor Yatırım ve Tic. A.Ş. ("**Bfit**") contained clauses violating the Competition Law and Communiqué No. 2002/2. The TCA, in its decision, mainly focused on *non-compete* and *no-poaching* clauses. However, it also evaluated Bfit's RPM practices.

In summary, the TCA decided that Bfit's franchise agreements are in the scope of Article 4 of the Competition Law due to non-compete and no-poaching clauses they contained, and they neither can benefit from the block exemption nor can receive an individual exemption.

With regards to RPM practices of Bfit, considering the documents acquired during the on-the-spot inspections and the information presented by Bfit, the TCA determined that; (**i**) price lists were created and distributed to the centers by Bfit only related to the reformer pilates services, (**ii**) the franchisees have freedom to set a price for the services other than reformer pilates services, (**iii**) this price list practice has been initiated recently and (**iv**) it has been detected that franchisees are able to deviate from the list prices.

The TCA evaluated the aforesaid practices and determined that such practices cannot benefit from individual exemption within the scope of the Competition Law. On the other hand, considering the abovementioned determinations and Bfit's low share in the market consisting of numerous and strong competitors, the TCA ruled that the effects of the RPM practices are very limited and therefore there was no need to initiate an investigation. However, instead of a full-fledged investigation, the TCA decided to share its non-binding opinion pursuant to the Article 9(3) of the Competition Law stating that Bfit shall amend the concerned clauses in its agreements; otherwise, a full-fledged investigation will be initiated.
As it can be seen, the TCA did not rule on a violation by object, and evaluated conditions such as market characteristics, market share of the concerned undertaking and the duration of the practices. Therefore, it can be deducted that the TCA has adopted an effect-based analysis approach.

When it comes to *Minikoli* Decision, the TCA concluded another preliminary inquiry without initiating an investigation. Said preliminary inquiry was initiated regarding the allegations whether Okan Okandan Mini Moda ("**Minikoli**") violated the Competition Law through means of RPM practices imposed upon its dealers.

The business relationship between Minikoli and its dealers depends on a certain type of dealership called "*XML dealership*", in another name "*dropshipping*". Within the scope of the business logic of XML dealership, the dealer does not establish an inventory and simply transfers the order to the supplier. The dealer bills the customer and gets paid and then the supplier bills the dealer and gets paid from the dealer itself. Therefore, a resale system exists between the supplier and the dealer, which means the dealers act as independent entities and assumes their own risks.

In light of the above, the TCA determined that the agreements signed between Minikoli and its dealers contain clauses which prohibit discounts without the approval of Minikoli. Such clause interferes with the price policies of the dealers and therefore are evaluated under RPM practices.

Nevertheless, establishing the existence of clauses leading to RPM practices, the TCA did not rule on a violation by object. On the contrary, it took (**i**) the market share of the Minikoli and (**ii**) the fact that these clauses are not enforced, into consideration and decided that there was no need to initiate an investigation. The TCA emphasized that Minikoli did not pressured its dealers into implementing fixed prices or did not impose sanctions against the dealers who deviated from Minikoli's prices. With all these factors in mind, the TCA decided to share its opinion in accordance with Article 9(3) of the Competition Law stipulating that Minikoli shall remove the concerned clause regarding RPM practices in 90 days instead of initiating a full-fledged investigation. The TCA also stated that in the case that Minikoli fails to comply with this opinion, a full-fledged investigation will be initiated.

Within this context, it is clear that the TCA adopted the effect-based analysis approach in the *Minikoli* Decision. Even though it established the existence of RPM clauses, the TCA decided not to initiate a full-fledged investigation since Minikoli did not implement such clauses in reality.

Conclusion
The TCA has adopted the effect-based analysis approach until the *Sony* and *Henkel* Decisions and considered the effects of the RPM practices on the market while deciding whether to impose fines or not. While evaluating the effects of the RPM practices, the TCA mostly emphasized the market share of the concerned undertakings, the number of competitors in the market and the duration of the practice. Nevertheless, this approach left its place to by object analysis in *Sony* and *Henkel* decisions, in which the TCA ruled on existence of violation and imposition of administrative fines purely based on the aim of the practices. However, we see that the TCA could establish effect-based approach on a case by case basis. Yet, even it is seen that the TCA adopted effect-based approach in these two recent decisions as it generally did in the past, considering the *Sony* and *Henkel* Decisions, these decisions do not help to remove uncertainty of the TCA's approach on the RPM activities.

[1] The TCA's decision dated 07.02.2019 and numbered 19-06/64-27.
[2] The TCA's decision dated 07.03.2019 and numbered 19-11/129-56.
[3] The TCA's decision dated 22.11.2018 and numbered 18-44/703-345.
[4] The TCA's decision dated 19.09.2018 and numbered 18-33/556-274.
[5] The calculations are based on today's exchange rate (21.06.2019; 1 TRY = 0.1720 USD).

Expiry Review of Water Heaters Concluded: **Application of Anti-Dumping Measures to Continue**

On 12 April 2019 the Turkish Ministry of Trade ***("Ministry")*** *announced its final decision regarding the expiry review investigation concerning imports of water heaters with Communiqué No. 2019/11 on the Prevention of Unfair Competition in Imports* ***("Decision Communiqué").*** *The Ministry decided on the continuation of the ongoing anti-dumping measures.*

The Ministry decided on the continuation of the ongoing anti-dumping measures against the imports of products classified under CN Code 8516.10.80.00.19, "Others (Water Heater - Electric, Storage Water Heater)" originating from the People's Republic of China (**"PRC"),** Italy, and Serbia with Communiqué No. 2013/17 on the Prevention of Unfair Competition in Imports, but with the ratios determined by the Communiqué No: 2019/11. The aforementioned measures were ruled to be 22% for Ariston Thermo (China) Co. Ltd. (PRC), 12% for Ariston Thermo S.p.A. (Italy), 16% for Ferroli S.p.A. (Italy), 49% for others in the PRC, 24% for others in Italy, and 29% for all firms in Serbia.

The expiry review investigation was initiated with Communiqué No. 2018/32 on the Prevention of Unfair Competition in Imports in 2018 due to the expiration of ongoing anti-dumping measures and complaints from domestic industry. Considering the complaints and the facts and findings, the Ministry decided that if the anti-dumping measures were to be abolished, the PRC, Italy, and Serbia would still have the capability to direct their exports to the Turkish market easily due to their high rates of production and export capacities on the global level. Therefore, with the Decision Communiqué, the Ministry ruled on the continuation of mentioned anti-dumping measures with new ratios.

Turkish Data Protection Authority Imposes 1.65 Million TRY Fine on Facebook

As a result of its investigation initiated ex officio against Facebook, the DPA announced on its website on 10 May 2019 its determinations regarding Facebook's breach of the Data Protection Law. According to the announcement, Facebook was fined TRY 1.650.000 in total. Having provided that the DPA published the actual amount of the fine for the first time, we consider that it aims to emphasize the importance of compliance with the data protection rules and deterrence of the penalties stipulated under the Data Protection Law.

The DPA indicated that its investigation regarding Facebook was initiated due to a software error occurred at the end of 2018 announced by the Facebook's Engineering Manager Tomer Bar. According to the DPA, the announcement entitled "Notifying our Developer Ecosystem about a Photo API Bug" indicates that Facebook breached several data protection rules.

In this respect, it is determined that the concerned API bug took place between 13 September - 25 September 2018 and may have affected about 300,000 users in Turkey. The DPA also stated that, due to the API bug, the third-party applications were able to reach to the user photos for which access was not allowed by the owners, and that this situation constituted a breach of the following data protection principles: "being in conformity with the law and good faith" and "being relevant, limited and proportionate with the purposes for which data are processed". Facebook was not able to determine whether third-party applications accessed photos that are not allowed by the owners and the DPA deemed this as another breach of the data controller's obligations regarding data security.

In addition, during the process of giving permission to third-party applications, the consent obtained from users for the access to their friends' information and other information cannot be regarded as an "explicit consent" under the Data Protection Law. It is reminded by the DPA that explicit consent should be given with free will and that it should not be put forward as a precondition for the provision of a product or service or to benefit from the service. Therefore, it is decided that Facebook breached the principle of "being in conformity with the law and good faith".

Lastly, Facebook only informed the users in December 2018 and did not inform the DPA at all, even though the API bug occurred in September 2018. This also established Facebook's another violation.

In the light of these findings, the DPA imposed an administrative fine of TRY 1,100,000 as Facebook failed to take all necessary technical and organizational measures, and of TRY 550,000 as Facebook did not fulfill its obligations regarding the data breach notification.

Turkish State-Owned Bank Under the Scrutiny of the Data Protection Authority in Relation to "Obligation to Inform"

*On 3 June 2019 the Turkish Data Protection Authority **("DPA")** published a summary of its decision concerning a Turkish state-owned bank, T.C. Ziraat Bankası A.Ş. **("Bank")**. This is the third time the DPA has published a decision in which a public institution is being investigated and the first time the DPA has revealed the name of the concerned public institution. The decision is of importance as it draws the framework of the "obligation to inform" under Turkish Personal Data Protection Law No. 6698 **("Data Protection Law")**.*

According to the obligation to inform, data controllers have to inform the data subjects about certain elements of their data processing activities. The obligation to inform is fulfilled if the Information Note contains the following aspects: (i) the identity of the data controller, (ii) the purposes of the processing, (iii) the persons to whom processed personal data might be transferred and the purposes of this transfer, (iv) the method and legal ground of the collection of personal data, and (v) the rights of the data subject set forth under Article 11.

The data subject should first apply to the relevant data controller (and not to the DPA) if they have a query about their personal data. However, in cases where these applications are (i) rejected, (ii) replied to insufficiently, or (iii) not replied to in due time (as soon as possible and within 30 days at the latest) by the concerned data controller, the data subject holds the right to file a complaint to the DPA.

A similar process took place in the bank's case. The data subject applied to the Bank, but the Bank failed to reply to the data subject's application within the 30-day period. As a result, the data subject submitted a complaint to the DPA. The complaint includes the data subject's original concern regarding the Bank's Information Note due to its incompliance with the data protection legislation's requirements, and additionally, the Bank's failure to reply to the application in an appropriate and timely manner as stated in Article 14.

As a result of the examination, the DPA concluded that disciplinary actions shall be taken against the responsible employees of the Bank and instructed the Bank (i) to respond to the application of the data subject and (ii) to take necessary measures for the Information Note's compliance with the data protection legislation.

As known, the Data Protection Law does not allow the DPA to fine public institutions. Instead, it foresees that the employees of the public institutions involved in a data protection violation may be subject to disciplinary investigations.

JV by Tata Steel and ThyssenKrupp Prohibited by the EC: No Adequate Remedies Offered

On 11 June 2019 the European Commission ("EC") said "No" to the creation of a joint venture by Tata Steel and Thyssen Krupp due to the risk of reduced competition in the crucially important steel sector and increased prices for different types of steel. The parties did not offer adequate remedies to address the EC's concerns. Feedback from third parties was crucial for the EC's decision (including at the remedies stage).

Following the in-depth investigation of the proposed JV that would combine the flat carbon steel and electrical steel activities of ThyssenKrupp (the second largest producer) and Tata Steel (the third largest), the EC decided to prohibit the transaction and preserve effective competition in the European steel market and the competitiveness of the industry. Feedback from a large number of customers active in the packaging and automotive industries was received during the investigation. Many worried the transaction would result in higher prices.

Among the EC's concerns was that the transaction would result in a reduced choice in suppliers and higher prices for customers of (i) metallic coated and laminated steel products for packaging where the merger would have created a market leader in a highly concentrated industry, and (ii) automotive hot dip galvanized steel products, where the merger would have eliminated an important competitor in the market where only a few suppliers can offer significant volumes of this steel.

The remedies offered by the parties did not address the EC's competition concerns adequately. The proposed divestment would have covered only a small part of the overlap between the merging companies or did not include adequate finishing assets capable of serving the customers in the geographic areas in which the merging companies mostly compete. Moreover, the remedy proposal included no assets for the production of the necessary steel input to the manufacture of galvanized steel products for the automotive sector. The EC sought the views of market participants about the proposed remedies. The feedback was negative for both areas. As a result, the EC prohibited the proposed transaction.

Five Banks Fined in the EU for Participating in Two Cartels in the Spot Foreign Exchange Market

On 16 May 2019 the EC fined Barclays, RBS, Citigroup, JPMorgan, and MUFG €1.07 billion for participating in foreign exchange spot trading cartels for 11 currencies. RBS received full immunity from fines for having revealed the existence of the cartels, thereby avoiding an aggregate fine of approx. €285 million.

According to the EC, foreign exchange spot trading activities are one of the largest markets in the world. In the course of the investigation it was revealed that some individual traders in charge of Forex spot trading of certain currencies on behalf of the relevant banks had exchanged sensitive information and trading plans, and occasionally had coordinated their trading strategies through various online professional chatrooms.

The commercially sensitive information exchanged in these chatrooms related to:

- outstanding customer orders (i.e., the amount a client wanted to exchange and the specific currencies involved, as well as indications of which client was involved in a transaction),
- bid-ask spreads (i.e., prices) applicable to specific transactions,
- their open risk positions (the currency they needed to sell or buy in order to convert their portfolios into their bank's currency), and
- other details of current or planned trading activities.

The information exchanges following the tacit understanding reached by the participating traders had enabled them to make informed market decisions on whether to sell or buy the currencies they had in their portfolios and when.

EUR 200 Million for Restricting Cross-Border Sales of Belgian Beer

On 13 May 2019 the EC concluded its 2016 investigation into activities of AB InBev with a EUR 200,409,000 fine for abuse of dominance in the Belgian beer market by hindering cheaper imports of its Jupiler beer from the Netherlands into Belgium, as a result of which consumers in Belgium overpaid for their beer. The violation lasted approx. seven years. The case is a reminder to dominant companies that dominance entails a special responsibility not to abuse their market power by restricting competition, either in the market in which they are dominant or in separate markets.

AB InBev abused its dominant market position in Belgium by pursuing a deliberate strategy to restrict the possibility for supermarkets and wholesalers to buy Jupiler beer at lower prices in the Netherlands and to import it into Belgium in order to maintain higher prices in that country. The following methods to maintain this strategy were used:

- change in the packaging of some of its Jupiler beer products supplied to retailers and wholesalers in the Netherlands to make these products harder to sell in Belgium, notably by removing the French version of mandatory information from the label, as well as changing the design and size of beer cans;
- limiting the volumes of Jupiler beer supplied to a wholesaler in the Netherlands to restrict imports of these products into Belgium;
- refusal to sell a number of AB InBev's products (that are very important for retailers in Belgium as customers expect to find them on their shelves) to one retailer unless the retailer agreed to limit its imports of less expensive Jupiler beer from the Netherlands to Belgium; and
- making customer promotions for beer offered to a retailer in the Netherlands conditional upon the retailer not offering the same promotions to its customers in Belgium.

Advantages of cooperation with the EC

The EC granted AB InBev a 15% fine reduction in return for its cooperation beyond its legal obligation to do so, in particular by expressly acknowledging the facts and the infringement of EU competition rules and by proposing a remedy, providing mandatory food information in both French and Dutch on the packaging of all AB InBev's existing and new products in Belgium, France, and the Netherlands for the next five years.

EUR 52 Million Fine for Providing Incorrect Information to the EC (General Electric/LM Wind Takeover)

On 8 April 2019 the EC fined General Electric ("GE") EUR 52 million for providing incorrect information during the EC's review of General Electric's planned acquisition of LM Wind. The fine imposed is proof of how seriously the EC takes breaches of the obligation of companies to provide it with correct information in the course of concentration control.

GE notified the EC of its proposed acquisition of LM Wind in January 2017, stating that it did not have any higher power output wind turbines for offshore applications in development, beyond its existing six-megawatt turbine. However, through information collected from a third party, the EC found that GE was simultaneously offering a 12-megawatt, offshore wind turbine to potential customers.

As a result, GE withdrew its notification of the acquisition of LM Wind and shortly thereafter re-notified the same transaction, this time including complete information about its future project. The EC approved the proposed acquisition.

The EC later addressed a Statement of Objections to GE, alleging that the company had breached its procedural obligations under the Merger Regulation. - as contrary to GE's statements in its first notification, GE had indeed been offering a higher power output offshore wind turbine to potential customers. The decision has no impact on the EC's approval of the transaction, as the clearance was based on rectified information from the second notification.

PUBLICATIONS

ACTECON publications

- Recent Abuse of Dominance Cases in the Electricity Sector in Turkey
  competitionlawblog.kluwercompetitionlaw.com
- State-Owned Turkish Bank was under the Scrutiny of the Turkish Data Protection Authority
  mondaq.com
- Meal Card Companies under the TCA’s Scrutiny: From Full-Functionality to Collusion
  competitionlawblog. kluwercompetitionlaw.com
- Resale Price Maintenance in Turkey in Light of the Most Recent Case Law
  mondaq.com

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