IN-DEPTH

Public Competition Enforcement

TÜRKIYE

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Public Competition Enforcement

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In-Depth: Public Competition Enforcement (formerly The Public Competition Enforcement Review) is an annual survey of the most important and relevant developments in public competition law enforcement in the most significant jurisdictions worldwide. Among other things, it examines the practical implications of recent enforcement activity regarding cartels, restrictive agreements, abuse of dominance, state aid and merger control.

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Türkiye

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Summary

Introduction

Law No. 4054 on the Protection of Competition (the Competition Law) has been in force since 1994 and the Turkish Competition Authority (TCA) was established in 1997.

The Turkish Competition Board (TCB) is the decision-making body of the TCA. The TCB is vested with special powers to enforce the competition rules regarding restrictive practices, abuse of dominance and mergers, as well as to draft and enact secondary legislation (regulations and communiques) for the implementation of the Competition Law. It also provides opinions on amendments to be made to competition legislation and monitors legislation, practices, policies and measures of other countries concerning agreements and decisions limiting competition. The TCA closely watches global developments in competition law enforcement, especially those made by the European Commission and national competition authorities.

Year in review

The TCA publishes 'Decision Statistics for the First Six Months' for the relevant year in the middle of each year and updates the relevant report as 'Decision Statistics' covering the whole year after the year is completed. At the time of writing, the Decision Statistics for the first half of 2024 have been published by the TCA. In the first six months of 2024, the TCB rendered a total of 283 decisions including 96 competition law infringement claim decisions, 141 merger and acquisitions decisions, two privatisation decisions, four negative clearance and exemption decisions, 38 other decisions and two decisions rendered on judicial rulings. Of 96 competition law infringement claim decisions, 90 concerned infringements of Article 4 of the Competition Law (on agreements, decisions and practices preventing, distorting or restricting competition in relevant markets), four concerned Article 6 violations (abuse of dominant position) and two concerned both these Articles. Fines in the first half of 2024 totalled 4,147,733,278.62 Turkish lira. The cases concerned a range of industries, including information technology (IT) and platform services, media, advertising and broadcasting, agriculture and agricultural products, the food industry (packaged product production, wholesale and retail, alcoholic and non-alcoholic beverages, food and beverage services), infrastructure services (electricity, gas, water, waste management, recycling, steam generation and distribution), chemicals and mining (petroleum and petroleum products, mining, fuel, petrochemicals, chemical products and gases), professional, scientific and technical activities (patenting, valuation and rating, building inspection, expert analysis and certification), construction (stone, cement, iron, steel, ceramics, glass, construction chemicals and engineering services), automotive and vehicles (automobiles, rail systems, ships and aircraft, production, sales, service, spare parts production and sales), the appliances industry (white goods, small home appliances, electrical products, electronic products, office machines and computers), the textile and ready-made clothing industry (production, marketing, wholesale and retail sales) and health services (drugs, hospitals, health equipment and supplies). Although the full year Decision Statistics for 2024 have not been published yet, the TCA announced during a media interview that administrative fines in the amount of approximately 7.7 billion Turkish lira have been imposed in 2024.

On 23 May 2024, Law No. 7511 introduced significant amendments in the area of competition law investigation procedures. The right for parties under investigation to submit a first written defence within 30 days of receiving the investigation notice has been abolished. Additionally, the requirement for the TCA to prepare an additional written opinion within 15 days of receiving a defence is now conditional, as such opinions will only be issued if the initial defence changes the TCA's position. These changes aim to expedite the investigation process while ensuring the right to a defence is maintained.

On 3 December 2024, the TCA introduced Guidelines on Competition Infringements in Labour Markets, which outline competition law principles regarding (1) wage-fixing agreements, (2) no-poach agreements, (3) exchange of information in labour markets and (4) ancillary restraints. Under the Guidelines, wage-fixing and no-poach agreements are considered to be infringements by object. According to the Guidelines, information deemed competitively sensitive in labour markets includes details about wages or other working conditions that could significantly impact employees' choice of employment or overall labour mobility. The Guidelines further state that any exchange of information intended to restrict competition in the labour market will be considered a violation, regardless of its effects. However, the Guidelines also specify that the exchange of information will not generally be considered anticompetitive if it meets all the conditions stipulated in the Guidelines. Lastly, the Guidelines state that some agreement provisions, while imposing restrictions on the labour market, may not be deemed anticompetitive if certain conditions are met in accordance with the ancillary restraints doctrine (e.g., a no-hire clause in a service agreement). To determine whether labour-related restrictions in main agreements qualify as ancillary restraints, the Guidelines consider whether these restraints are directly related, necessary and proportional to the main agreement.

On 27 December 2024, the TCA announced significant amendments to the Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition and Abuse of Dominant Position (the Regulation on Fines), introducing key changes aimed at enhancing flexibility and enforcement. The amendments abolish the previous definitions of 'cartel violations' and 'other violations', which determined base fine rates of 2–4 per cent and 0.5–3 per cent, respectively. This removal grants the TCA broader discretion in setting fines. Additionally, the fine calculation for the duration of the violation has been revised. Instead of the fixed increases of 50 per cent for breaches lasting one to five years and 100 per cent for breaches exceeding five years, fines will now increase incrementally by 20 per cent for each year of infringement (e.g., 20 per cent for one to three years, 40 per cent for two to three years). The regulation also removed fixed limits for reductions based on mitigating circumstances, leaving the extent of reductions entirely to the TCA's discretion. Furthermore, a new clause broadens the scope for increased fines if parties resume the infringement after being notified of the investigation, no longer limiting this to cartel violations. Following the amendments to the Regulation on Fines, the Guidelines on Fines was published on 10 February 2025, which clarifies the implementation of the Regulation.

As for the record fine of the year, the TCA concluded its investigation against Google regarding the violation of Article 6 of the Competition Law in online display advertising and ad tech services. Initially, the TCA examined allegations that Google restricted independent demand-side platforms from accessing YouTube inventory and prevented third-party validation of YouTube ads. Google submitted commitments, which the TCA accepted,

thereby resolving these concerns. However, the investigation also assessed the claims that Google leveraged its dominance in the publisher advertisement server market to favour its own supply-side platform (SSP) AdX over competitors. The TCA found that Google's self-preferencing practices in the SSP market stifled competition, violating Article 6, and imposed on Google a record fine over 2.6 billion Turkish lira.

Cartels

Cartels: definition of a cartel

Agreements and concerted practices between undertakings, and decisions and practices of associations of undertakings that have as their object or effect or likely effect the prevention, distortion or restriction of competition directly or indirectly in a particular market for goods or services, are illegal and prohibited in accordance with Article 4 of the Competition Law. Therefore, cartel activities in the markets are covered by Article 4 of the Competition Law.

However, the Competition Law does not provide a definition of practices deemed to be a cartel. Instead, the Regulation on Active Cooperation for Discovery of Cartels defines cartels as follows:

1. agreements restricting competition or concerted practices between competitors for fixing prices;
2. allocation of customers, providers, territories or trade channels;
3. restricting the amount of supply or imposing quotas; and
4. bid rigging.

Moreover, Paragraphs 44 and 57 of the Guidelines on Horizontal Cooperation Agreements stipulate that exchange of competition-sensitive information among rivals (e.g., future prices, outputs or sales amounts) is deemed to be cartel conduct if it is in the nature of an agreement with the object of fixing prices or quantities.

Cartels: fines for cartel behaviour

Pursuant to Article 16(3) of the Competition Law, those who commit behaviour prohibited in Article 4 of the Competition Law shall be subject to an administrative fine of up to 10 per cent of the annual gross revenue of the relevant undertakings, associations of undertakings or members of such associations generated by the end of the financial year preceding the decision or, if it is not possible to calculate this, the financial year closest to the date of the decision as determined by the TCB.

Paragraph 3 of Article 16(4) of the Competition Law provides that managers or employees of undertakings or associations of undertakings who are found to have had a decisive influence on the violation may be given fines of up to 5 per cent of the fine given to the undertakings or associations of undertakings.

In determining the percentage of the fine to be imposed, the TCB takes the characteristics of the violation into account, and thus the consequences of an infringement vary depending on the facts of the specific behaviour.

Reviewing the mitigating[1] and aggravating[2] factors, the TCB is entitled to increase the fine percentage to up to 10 per cent of the company's turnover achieved within the previous year.

That said, there are no criminal sanctions in the cartel enforcement of the TCA, except for bid rigging in public procurement, in which case it is possible for the TCA to report this cartel activity to the prosecutor's office.

Cartels: leniency programme

The New Leniency Regulation (Regulation on Active Cooperation for Discovery of Cartels) came into effect on 16 December 2023 and introduced new definitions such as 'cartel facilitator', 'party to the cartel' and 'documents with added value'::

1. cartel facilitator refers to undertakings and associations of undertakings that mediate for organising or maintaining a cartel, and facilitate the organising or maintaining of a cartel with their activities, without carrying out activities at the same level of the production or distribution chain as the parties to the cartel;
2. party to the cartel refers to undertakings operating in the same level of the market and being a party to the agreements or concerted practices defined as cartels; and
3. documents with added value refer to information and documents that will reinforce the TCB's ability to prove the cartel, taking into account the evidence held by the TCB. The New Leniency Regulation requires the submission of documents with added value within three months following the notice of investigation, whereas there was only a requirement to submit before the notification of an investigation report in the former regulation.

The Old Leniency Regulation provided immunity or the possibility of a reduced fine for infringements that could qualify as cartels. Under Turkish competition law, the leniency procedure was only applicable to cartels; however, one exception to this was the *Corporate Banking* decision. Although there was no finding of cartel conduct, Bank of Tokyo-Mitsubishi UFJ Türkiye was not subject to the imposition of a fine by the TCB because it cooperated with the authority. Pursuant to the amendments, it has been made clear that non-cartel horizontal violations may also be able to benefit from leniency.

The first undertaking to submit the information and evidence and meet the requirements laid down in Article 6 of the New Leniency Regulation independently of its competitors, before the preliminary inquiry decision or as of the decision by the TCB to carry out a preliminary inquiry until the notification of the investigation report, shall be granted immunity from fines on condition that the TCA does not have, at the time of the submission, sufficient evidence to find the violation of Article 4 of the Competition Law. Managers and employees of the undertaking shall also be granted immunity from fines. Further reductions in fines are provided in detail in the New Leniency Regulation.

According to Article 6 of the New Leniency Regulation, to benefit from the active cooperation or leniency application, an undertaking must:

1. submit information and evidence in respect of the alleged cartel, including the products affected, the duration of the cartel, the geographical scope of the cartel, the names of the undertakings party to the cartel, specific dates, locations and cartel meeting participants;
2. not conceal or destroy information or evidence related to the alleged cartel;
3. end its involvement in the alleged cartel unless requested otherwise by the assigned unit on the grounds that detecting the cartel would be complicated;
4. keep the application confidential until the end of the investigation, unless otherwise requested by the assigned unit; and
5. maintain active cooperation until the TCB takes the final decision after the investigation is completed.

A guarantee that the information and documents submitted are not going to be included in the investigation file is provided for the undertakings whose leniency application is not accepted by the TCA.

In addition, according to Articles 5 and 8 of the New Leniency Regulation, undertakings that fulfil the requirements of Article 6 but cannot benefit from not being fined, and managers and employees who provide the relevant documents to the TCB but cannot benefit from not being fined, within three months following the notification of the investigation, provided that it is before the notification of the investigation report, as of the TCB's decision to conduct a preliminary investigation, may benefit from the discount.

Any leniency application must be submitted before the settlement application. If both the leniency application and the settlement application are accepted, the parties may benefit from both discounts.

Cartels: settlement mechanism

The settlement mechanism was introduced with the amendments made to the Competition Law in 2020. After initiating an investigation, the TCB may, on the request of the parties concerned or on its own initiative, start the settlement procedure, considering the procedural benefits that may arise from a rapid resolution of the investigation process and the differences in opinion concerning the existence and scope of the infringement. Before the notification of the investigation report, the TCB may come to a settlement with the undertakings and associations of undertakings under investigation that acknowledge the existence and scope of the infringement. As a result of the settlement procedure, a discount of up to 25 per cent may be applied to the administrative fine. If the process is concluded with a settlement, the parties to the settlement may not take the administrative fine and the provisions of the settlement text to court. The settlement mechanism can be applied to violations other than cartels. The settlement mechanism is highly encouraged by the TCA due to its contribution to procedural economy. As a matter of fact, in the first half of 2024 alone, 66 of 96 competition law infringement decisions have been completed with

settlement mechanism. The secondary legislation regarding the settlement mechanism was adopted in July 2021.

Cartels: significant cases

One of the cartel investigations conducted by the TCA in 2024 was the *Roche/Novartis* case. The TCA reassessed its *Roche/Novartis* investigation dated 2021, following the overturning of its initial ruling by the administrative courts. With its decision in 2021, the TCB found that Novartis and Roche had violated Article 4 of Competition Law by engaging in concerted practices to promote Lucentis over Altuzan, two competing drugs used in the treatment of eye diseases. The TCB concluded that the companies coordinated efforts to deter the use of Altuzan, a cheaper alternative, by spreading misleading information about safety concerns regarding the risk of endophthalmitis and other side effects. This strategy, executed through administrative and judicial processes, sought to shift market demand toward Lucentis, ultimately leading to higher healthcare costs and consumer harm. As a result, the TCB imposed aggravated fines on Novartis and Roche, since the violation lasted for over seven years (between 2011 and 2019). However, the first instance court annulled the TCB's decision, ruling that while Novartis and Roche had violated Article 4 of Law No. 4054, the infringement should have been deemed to last fewer than four years, and the regional administrative court upheld the annulment decision. Thereupon, the TCA reassessed the case in 2024 and concluded that the conduct of Novartis and Roche restricted competition by creating artificial barriers to the use of Altuzan and distorted market dynamics in favour of Lucentis between 2015 and 2019, resulting in an increase in the base fine rate by only 50 per cent instead of 100 per cent based on the fact that the duration of the violation was between one and five years, in line with the administrative court's judgment.

Furthermore, the TCA published its reasoned decisions regarding the online cosmetic hub-and-spoke cartel investigation initiated into Turkish cosmetics and personal care companies: Evdeeczane, Cosmed, Farmakozmetika and Bakım Kutusu. With the investigation, the TCA examined Cosmed's Buybox system, which determined which seller's product was prioritised on online sales platforms. The TCA found that Bakım Kutusu, Evdeeczane, and Farmakozmetika obtained competitively sensitive information about each other and reached an agreement on their prices through Cosmed. Based on these assessments, the TCA concluded that a hub-and-spoke cartel formation had been established via Cosmed's Buybox system, with Cosmed acting as the hub and the retailers as the spokes, thereby facilitating horizontal coordination. The TCB concluded the investigation by executing the settlement mechanism in terms of the respective undertakings.

In 2021, the TCA initiated its inaugural investigation into potential labour market infringements, encompassing 32 undertakings. It is noteworthy that this investigation encompassed a wide range of sectors, including fast-moving consumer goods retail, online food ordering platforms and luxury retail. Furthermore, the TCA underscored that companies operating across diverse sectors may be considered competitors in terms of labour, highlighting the broader implications of such agreements beyond individual product markets. The investigation was completed in 2023 with a hybrid settlement decision by 11 of the 27 undertakings, which accepted the nature and scope of the infringement. These

decisions demonstrate that the TCA continues to reaffirm its position that no-poaching agreements merit the same level of scrutiny and penalties as carrel agreements.

In May 2024, the TCB fined five private French high schools in Istanbul (Saint-Joseph, Saint Benoît, Notre-Dame de Sion, Saint-Michel and Sainte Pulchérie) a total of 21,324,909.09 Turkish lira for forming a cartel by determining (1) the school registration fees and the elements constituting the fees, and (2) the salaries of Turkish teachers.

Furthermore, a significant ongoing investigation is being conducted into the labour market within the pharmaceutical sector. This inquiry aims to examine potential issues related to employment practices, recruitment processes and overall market dynamics in the sector. So far, it is known that investigations against six undertakings have been completed with settlement mechanisms and the TCB imposed a total fine of approximately 481 million Turkish lira on six undertakings on the grounds that they engaged in no-poaching agreements and competition-sensitive information exchange.

Cartels: trends, developments and strategies

In terms of competition probes, cases seen during the year in review covered:

1. IT and platform services;
2. media, advertising and publishing;
3. agriculture and agricultural products;
4. the food industry;
5. healthcare services;
6. chemistry and mining;
7. banking, capital markets, finance and insurance services;
8. the machinery industry;
9. culture, art, entertainment, leisure, sports, games of chance and education;
10. textiles and ready-to-wear garments; and
11. the automotive industry and vehicles.

Other cases include telecommunications; infrastructure services; logistics, warehousing and mail services; leather and leather products, rubber and plastic; vocational, scientific and technical operations; real estate services; construction; industry sector; forestry and wood-based industries; jewellery; and accommodation, travel and tour operators.

The trend that saw price increases in various sectors that were looked into following the fluctuation of the Turkish lira and high inflation rates continued throughout 2024. The TCA monitored undertakings' behaviour to determine whether any price increases stemmed from incremental costs or anticompetitive activities. In addition, e-platforms and labour markets are also prominent within the TCA’s agenda.

Cartels: outlook

The TCA will closely watch critical markets such as healthcare, transport, consumer goods, automotive, financial services, travel and tour operators, digital platforms and consumer electronics, and use its powers proactively.

In fact, the TCA is conducting investigations into almost all the above-mentioned markets. While supermarkets and their suppliers are a clear priority, digital platforms and tourism markets are also under scrutiny. Moreover, the TCA is investigating an alleged gentleman's agreement between undertakings in the labour market.

Antitrust: restrictive agreements and dominance

Article 4 of the Competition Law sets out the main rules governing horizontal and vertical relations between undertakings and prohibits any agreement, decision and practice preventing, distorting or restricting competition in the relevant markets.

Restrictive agreements may be exempted from the application of Article 4 of the Competition Law. The TCB has issued block exemption communiques covering vertical restraints, research and development agreements, specialisation agreements and technology transfer agreements. Moreover, the motor vehicle and insurance industries have sector-specific block exemption communiques. Restrictive agreements that do not benefit from block exemption communiques may be exempt from the application of Article 4 of the Competition Law provided that they:

1. ensure new developments or economic or technical improvements in the production or distribution of goods and in the provision of services;
2. benefit the consumer;
3. do not eliminate competition in a significant part of the relevant market; and
4. do not restrict competition more than necessary to achieve the goals set out in points (a) and (b).

A dominant position means that one or more undertakings in a particular market has the power to determine economic parameters such as price, supply and the amount of production and distribution by acting independently of their competitors and customers. It is not in itself an infringement for an undertaking to hold a dominant position, and undertakings are allowed to become more prominent competitively as a result of their internal efficiencies. However, Article 6 of the Competition Law prohibits any practice that may harm consumer welfare by dominant undertakings exploiting the advantages provided by their market power. In this respect, dominant undertakings are considered to have a 'special responsibility' not to allow their conduct to restrict competition.

Article 6 of the Competition Law states that the abuse, by one or more undertakings, of a dominant position in a market for goods or services within the whole or a part of the country on their own or through agreements with others or through concerted practices is illegal and prohibited. Abuse of dominance is also considered a violation in terms of fining methodology. Although it is not indicated under Article 6 of the Competition Law, excessive pricing is a theory of harm in the TCA's practice akin to that in Article 102(a) of the TFEU.

It should be reiterated that the legislation regarding restrictive agreements and abuse of dominance complies with EU competition legislation.

Antitrust: significant cases

In terms of vertical restrictions, resale price maintenance remained a recurring theme of the TCA's enforcement efforts in 2024. In the reasoned decision regarding the investigation against Nestlé, the TCA fined Nestlé approximately 346 million Turkish lira for engaging in resale price maintenance and imposing territorial and customer restrictions on distributors. The investigation revealed that Nestlé intervened in distributors' pricing and discount practices through tools such as the Panorama system and correspondence, indicating efforts to enforce minimum resale prices and monitor compliance. Additionally, Nestlé imposed region and customer restrictions on distributors, categorising customers into 'red', 'yellow' and 'green' lists, with discounts contingent on these categories, effectively restricting both active and passive sales. The findings, supported by internal communications and distributor agreements, highlighted Nestlé's practices in controlling sales and discounts, leading to competition concerns in multiple market areas.

Another significant decision regarding abuse of dominance is the TCA's interim measures on Novozymes. With its *Novozymes* decision, the TCA imposed interim measures on Novozymes within the scope of the preliminary investigation initiated upon the allegations that Novo Türkiye restricted competition in the market for industrial enzymes and excluded its competitors through de facto exclusivity practices. The TCA found that the undertaking held a strong position in industrial enzymes in general and flour and bakery enzymes in particular and it was in a dominant position in the market for fungal alpha amylase enzyme. Upon being convinced that the undertaking was restricting competition through its rebate systems, the TCA banned Novozymes from applying discounts for its must-stock product, fungal alpha amylase enzyme, and applying discounts in the bundle agreements where fungal alpha amylase enzyme is sold together with other enzyme types.

Additionally, with its *Frito Lay* decision dated 13 February 2025, the TCB imposed an administrative fine on Frito Lay (active in Türkiye with the Lays, Ruffles, Doritos, Cheetos and Çerezza brands in the packaged chips sector) in the amount of approximately 1.36 billion Turkish lira on the grounds that Frito Lay engaged in practices aimed at preventing the sales of its competitors at sales points such as grocery stores, markets and kiosks. In addition to the fine, several behavioural remedies were imposed on Frito Lay. Some of the significant remedies are as follows: financial benefits provided to retail sales points in the traditional channel, except standard purchasing transactions, shall be ended; for sales points under 200 m2 and where there are no competing stands, 30 per cent of the vertical and visible sections of Frito Lay stands shall be reserved only for competing products; if competing products are unavailable or sold out at the sales points for any reason, this section reserved for competing products shall be left empty and shall not be filled with Frito Lay products; Frito Lay shall place a maximum of one chips stand at the sales points.

Antitrust: trends, developments and strategies

The TCA actively enforces competition rules regarding restrictive agreements and abuse of dominance, addressing a wide range of industries. In 2024, the TCA continued to adopt

a stricter approach towards vertical restrictions, particularly resale price maintenance and sales restrictions.

Meanwhile, digital markets remain one of the primary focuses of the TCA, particularly in cases involving abuse of dominance. In December 2024, the TCA fined Google a record 2.6 billion Turkish lira for self-preferencing its own supply-side platform (AdX) in the publisher ad server services market. Another digital markets case was regarding Nesine.com, which is an online platform in Türkiye primarily focusing on sports betting. The TCB concluded that the undertaking abused its dominant position as well by signing exclusive agreements for advertisement, promotion and sponsorship with sports clubs, as well as signing exclusive agreements with undertakings for stadium advertisements. Consequently, the TCB imposed a fine of 77.7 million Turkish lira on Nesine.com, also forcing it to remove exclusivity clauses from existing agreements and refrain from including them in future ones.

Overall, the TCA's latest decisions confirm its ongoing focus on digital markets, vertical restrictions and emerging competition concerns. The TCA's proactive and swift enforcement, coupled with its willingness to impose onerous fines and compliance remedies, signals a more stringent approach to antitrust compliance, particularly in digital and data-driven sectors.

Antitrust: outlook

The TCB continues to impose administrative fines on undertakings for obstructing or hindering on-site examinations within the scope of on-site examinations carried out at undertakings during the preliminary investigation process. With a similar approach, the TCB considered the deletion of WhatsApp messages by an employee after the initiation of an on-site inspection conducted at AbbVie, a global pharmaceutical manufacturer, as an act of hindering and obstructing the inspection. The decision emphasised that, despite employees being explicitly warned at the beginning of the inspection not to delete any data, the messages were still erased. Although AbbVie indicated that the relevant employee had deleted such data regularly and deletion was not carried out with the intent to destroy any data, the TCB ignored this defence that the intent behind deleting the messages was irrelevant, as any deletion of data during an inspection is deemed an act of evidence tampering and a breach of data integrity within the undertaking.

Additionally, on 6 February 2025, the TCB imposed an administrative fine of approximately 1.3 billion Turkish lira on BİM (the largest fast-moving consumer goods retailer and discounter in Türkiye) due to it obstructing and hindering on-site examination, after a company manager deleted data during an on-site inspection.

Furthermore, the TCB's *Trugo/Shell* decision (dated 21 December 2023 and numbered 23-60/1159-414) provides guidance on navigating competition law challenges while fostering innovation in renewable energy sectors, particularly electric vehicles. The decision involves a partnership between Trugo (a subsidiary of Togg) and Shell&Turcas, focusing on developing a nationwide electric vehicle charging network across Shell-branded fuel stations. Under the agreement, both parties will independently operate their own charging stations while offering services through their platforms. Trugo will provide charging management services, mobility solutions, and customer support to Shell for charging operations. The TCB evaluated the agreements as both horizontal

(collaboration between competitors) and vertical (between Trugo, Shell and Shell dealers) arrangements. While exclusivity clauses and market effects raised concerns, the TCB concluded that the agreements would not significantly harm competition. Instead, they would enhance service efficiency, increase consumer choice and support the growth of Türkiye's electric vehicles market without creating significant barriers for other competitors. Thus, the TCB concluded that the collaboration benefits from individual exemption under Article 5 of Competition Law.

Sectoral competition: market investigations and regulated industries

The TCA has the power to conduct market studies.

The TCA published one market investigation report in 2024: the Fuel Sector Review Report. The Report focused specifically on automotive fuels, which dominate the market due to their significant consumption share, by excluding liquefied petroleum gas (LPG) derived from crude oil distillation at refineries. The TCA's report on the fuel sector provides a comprehensive update to the 2008 analysis, focusing on the market structure, competitive dynamics and regulatory framework. It highlights the multi-stage value chain of the industry, covering upstream and downstream operations, and emphasises the significant impact of global crude oil prices on retail fuel costs. The report identifies challenges such as tacit collusion, limited competition due to entry barriers, and regulatory inefficiencies. Policy recommendations in the report include easing market entry, revising distribution licence requirements, fostering competition at the wholesale level, and improving consumer information on fuel pricing. While maintaining continuity with the 2008 report, the updated analysis incorporates recent data and insights, offering stakeholders a refreshed perspective on the market's evolution and providing actionable strategies to enhance competition.

State aid

Even though the primary legislation of the Turkish competition law regime regarding state aid is mainly harmonised with that of the EU, secondary legislation for the implementation of this regime has not yet been adopted. Therefore, there are no state aid decisions within the scope of Turkish competition law.

Merger review

The main legislation on merger review is Article 7 of the Competition Law and Communique No. 2010/4 on Mergers and Acquisitions Requiring the Approval of the Competition Board. Following the amendment made in Article 7 of the Competition Law, to harmonise with EU legislation, the significant impediment to effective competition (SIEC)

test was adopted by the Turkish competition law system, replacing the dominant position test for mergers or acquisitions.

On the other hand, significant changes were introduced in Communique No. 2010/4 in March 2022. Pursuant to new revisions, a concentration shall be deemed notifiable in Türkiye if:

1. the aggregate Turkish turnover of the transacting parties exceeds 750 million Turkish lira and the Turkish turnover of at least two of the transacting parties each exceeds 250 million Turkish lira; or
2. the asset or business subject to acquisition in acquisition transactions, and at least one of the parties to the transaction in merger transactions, has a turnover in Türkiye exceeding 250 million lira and the other party to the transaction has a global turnover exceeding 3 billion Turkish lira.

With the amendments introduced in 2022, transactions regarding the acquisition of technology undertakings operating in the Turkish geographical market or having R&D activities or providing services to users in Türkiye shall be subject to notification to the TCA regardless of the above-mentioned 250 million lira turnover thresholds. In this regard, technology entities are defined as undertakings or related assets operating in the fields of digital platforms, software and gaming software, financial technologies, biotechnology, pharmacology, agrochemicals and health technology under the relevant communique.

Further, the provision in Article 13(2) of Communique No. 2010/4 that states 'mergers and acquisitions that lead to a significant impediment of competition by creating or strengthening a dominant position shall be prohibited' has been amended to 'mergers and acquisitions that lead to a significant decrease in competition particularly by creating or strengthening a dominant position shall be prohibited'. The purpose of the added word 'particularly' is to emphasise that a concentration will not be permitted if it significantly restricts competition, even if it does not create a dominant position. Following the amendments on Communique No. 2010/4, Guidelines on the Assessment of Horizontal Mergers and Acquisitions and Guidelines on the Assessment of non-Horizontal Mergers and Acquisitions have been amended. Lastly, amendments have been made to the content and format of the Notification Form on Mergers and Acquisitions, which is annexed to Communique No. 2010/4.

Merger review: significant cases

The *Berkshire Hathaway* case, which sets a precedent and continues to shape the TCA's approach today, indicated that the exception of a technology undertaking is applicable even though the target's activities in other jurisdictions were considered in line with the definition of a technology undertaking, but yet not in Türkiye. This reasoning remains consistent in the TCA's practice.

On 27 December 2024, the TCB conditionally approved Param's acquisition of Kartek. While the reasoned decision has not yet been published, the TCB identified competition concerns, including potential restrictions on Kartek customers' access to services and Param accessing sensitive information about its competitors via Kartek. To address these concerns Param offered commitments, including separating Kartek and Param as distinct

legal entities, separating their boards, implementing measures to prevent Param from accessing Kartek's strategic customer data, and ensuring contracts align with market conditions. The payment services market, including infrastructure provision (e.g., card processing, fraud management and settlement services), was extensively analysed.

The *Param/Kartek* case further clarified the limits of permissible pre-merger conduct. The TCA found that Param Holding engaged in activities amounting to de facto control transfer before obtaining clearance, violating Turkish competition law. The TCA ruled that these activities constituted premature integration, restricting Kartek's independence and posing competitive risks. Consequently, it imposed an administrative fine on the acquiring party, amounting to 0.1 per cent of their 2022 gross revenue in Türkiye.

Lastly, in the *VMware, Inc/Broadcom* case, it has been determined that the acquisition of VMware by Broadcom was completed without notification to the TCA. In this regard, although the parties argued that VMware's activities have a weak and distant connection to Türkiye and that no competitive impact would be observed in the Turkish market, the TCB did not accept these arguments. Consequently, due to the failure to notify a transaction subject to clearance, the TCB imposed an administrative fine on Broadcom Inc, the acquiring party, amounting to 0.1 per cent of its gross revenue generated in Türkiye in 2023.

Merger review: trends, developments and strategies

In 2024, 311 mergers and acquisitions (M&A) and privatisation transactions were examined by the TCA.

Merger review: outlook

Through recent legislative amendments, the TCA aims to protect innovation-based competition by introducing the definition of technology undertakings in terms of M&A control. Indeed, the TCA, with the amended lower thresholds, embraces a broader approach to bring acquisitions of technology undertakings under a greater degree of control and to ensure acquisitions of such undertakings are not prevented. In particular, the tendency for large-scale incumbent undertakings to take over nascent competitors is to be controlled to avoid restricting effective competition.

The *Compugroup/Bupa* and Param/*Kartek* decisions further confirm the TCA's approach in this regard. In *Compugroup/Bupa* case, the TCA examined the competition concerns regarding the transaction thanks to the technology undertaking exception. The decision raised serious competitive concerns regarding data access and input foreclosure, particularly due to Bupa Acıbadem's potential access to competitively sensitive information from rival insurers. To eliminate these risks, the transaction was conditionally approved with behavioural remedies, including non-discriminatory access commitments, data separation measures and independent monitoring requirements. Similarly, the Kartek decision aligns with this trend, demonstrating the TCA's vigilance in addressing pre-merger coordination risks and potential competitive harm in technology-driven industries. These cases collectively reflect the TCA's firm stance on ensuring that transactions in digital and data-centric markets are subject to rigorous competition law scrutiny, reinforcing

its commitment to preventing anticompetitive effects while fostering innovation-driven competition.

Outlook and conclusions

In 2024, the TCA focused on dynamic markets such as retail, technology, digital platforms and renewable energy. Key decisions, including fines against Google for abuse of dominance and Nestlé for resale price maintenance, highlight the TCA's firm stance against anticompetitive practices.

With increased attention on labour markets, no-poaching agreements and digital platforms, the TCA aims to strengthen oversight in critical sectors such as healthcare and financial services. Its proactive and innovation-friendly approach ensures fair competition while addressing evolving market challenges in Türkiye.

It is observed that recent legislative amendments introduced in 2024 are designed to accelerate enforcement processes and enhance procedural flexibility. The abolition of the first written defence requirement and the conditionality of additional written opinions aim to streamline investigations. Similarly, the amendments to the Regulation on Fines significantly increase the TCA's discretion in setting penalties, introducing incremental fine calculations based on the duration of violations and eliminating fixed reductions for mitigating circumstances. These revisions reflect a shift towards a more adaptable enforcement framework, allowing the TCA to address competition infringements more effectively.

Moreover, the amendments to the Leniency and Fine Regulations underscore the TCA's intent to encourage companies to comply proactively with competition rules. The introduction of Guidelines on Competition Infringements in Labour Markets further demonstrates the TCA's increased scrutiny of labour-related anticompetitive conduct. By classifying wage-fixing and no-poaching agreements as infringements by object and establishing clear parameters for the exchange of sensitive information in labour markets, the TCA sends a strong signal that compliance with competition law must be embedded in corporate strategies from the outset.

These developments indicate that the TCA is committed to strengthening its enforcement mechanisms, ensuring a faster, more flexible, and deterrent competition policy framework to safeguard market integrity in Türkiye.

Endnotes

1 Such as provision of assistance to the investigation beyond fulfilment of the legal obligations by providing physical and/or technical facilities that enable the on-site inspection to be completed in a shorter time or carried out more effectively, or by voluntarily submitting additional information or documents related to the subject matter of inspection during the on-site inspection by the inspected party, the existence of coercion by other undertakings in the violation, limited participation in the violation, attribution of a very small share of annual gross revenue to the practices subject to the violation, presence of revenues generated from foreign sales within the annual gross revenues that form the basis for the administrative fine. ^ Back to section

2 Such as recidivism in respect of the violation, maintaining the cartel after notification of the investigation decision, having decisive influence in the violation and violating the confidentiality obligation set forth in Article 12(3) of the Regulation on the Settlement Procedure. ^ Back to section

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