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**Communiqué on the Rights and Obligations of the
Undertakings and Associations of Undertakings Arising
from the Act No. 4054 after the Conclusion of the
Organization of the Competition Authority
Communiqué No.1997/6**

Article 1- The Competition Board, responsible for enforcing the Act on the Protection of Competition, No.4054 dated 07.12.1994 which entered into force on 13.12.1994, announced that the organization of the Competition Authority is concluded from 05.11.1997, by the Communiqué No. 1997/5 published in the Official Gazette No.23160 dated 04.11.1997.

By the announcement of this Communiqué, reminding the rights and obligations of the undertakings and associations of undertakings which either operate in or affect the markets for goods and services within the territory of Turkey is considered to be necessary, within the provisions of the Act on the Protection of Competition No. 4054.

Notification of New Agreements, Concerted Practices and Decisions

Article 2- From 05.11.1997, agreements and concerted practices of the undertakings, which come under the Article 4 of the Act, and such decisions and practices of associations of undertakings shall be notified to the Board within one month at the latest after they are made or performed.

Notification of Existing Agreements, Concerted Practices and Decisions

Article 3- Any kind of agreements and concerted practices of the undertakings and also decisions of associations of undertakings, which come under the Article 4 of the Act on the Protection of Competition No. 4054 and which exist on 05.11.1997, shall be notified to the Board within 6 months at the latest from 05.11.1997.

Way of Submitting Notification

Article 4- Notification shall be submitted by Form-1 in compliance with the provisions of the “Communiqué of the Competition Board on the Procedures and Principles for Notification of Agreements, Concerted Practices and Decisions of Associations of Undertakings Pursuant to the Article 10 of the Act” No.1997/2 which entered into force on 05.11.1997, after being published in the Official Gazette No.23078 dated 12.08.1997.

Sanctions for Failure to Submit Notification

Article 5- Exemption provisions shall not be applied to the agreements, concerted practices and decisions that are not notified although they are subject to notification according to the Act No. 4054 and the Communiqués of the Board issued by the power granted by the Act, also fines stated in the Article 16, paragraph 1 and subparagraph (c) of the Act shall be applied to the undertakings concerned.

Agreements, Concerted Practices and Decisions That are not Subject to Notification

Article 6- Notification of the agreements that are given block exemption from the application of the Article 4 of the Act, by the Competition Board, based on the power granted by the Article 5 of the Act No. 4054, is not necessary. Within this framework, among the Block Exemption Communiqués issued by the Board to date, as the agreements, concerted practices and decisions of undertakings, which are in compliance with the provisions of:

a) "Block Exemption Communiqué on the Exclusive Distribution Agreements" No.1997/3 that entered into force on 05.11.1997 in accordance with the provision of the Article 10 on its entry into force, after being published in the Official Gazette No.23100 dated 04.09.1997.

b) "Block Exemption Communiqué on the Exclusive Purchasing Agreements" No.1997/4 that entered into force on 05.11.1997 in accordance with the provision of the Article 10 on its entry into force, after being published in the Official Gazette No.23105 dated 09.09.1997.

are exempted from the application of the Article 4 of the Act automatically, it is not compulsory for the undertakings concerned to notify the agreements, concerted practices and decisions which exist on 05.11.1997 and which shall take place after this date.

Among the agreements, concerted practices and decisions which are not in compliance with the conditions stated in the Block Exemption Communiqués;

It is compulsory that the agreements, concerted practices and decisions which were realized before 05.11.1997 and exist on this date, and the agreements, concerted practices and decisions which shall be realized after 05.11.1997, are made to comply with the conditions prescribed in the Block Exemption Communiqués within 6 months from 05.11.1997 and within 1 month from the date of realization respectively; or that they are notified to the Board within the same periods in order to benefit from individual exemption, if one does not think to make them comply with these conditions and benefit from block exemptions, and one believes that they bear the conditions in the Article 5 of the Act.

Undertakings which are hesitant about compliance with the conditions in the Block Exemption Communiqués, may notify such agreements, concerted practices and decisions to the Board. It shall be possible for the undertakings and associations of undertakings concerned to apply to the Board in order to receive negative clearance certificate according to the Article 8 of the Act for the agreements, concerted practices and decisions which they believe not to be contrary to the Article 4 of the Act.

Mergers and Acquisitions

Article 7- According to the paragraph 1 of the Article 7 of the Act on the Protection of Competition. No. 4054, merger of two or more undertakings, or acquisition, except acquisition by inheritance, by an undertaking or by a person, of another undertaking, either by acquisition of all or a part of its assets or shares or the means granting the power of right in the management, which would create or strengthen the dominant position of one or more undertakings as a result of which, competition would be significantly diminished in any market for goods and services in the whole territory of the country or in a substantial part of it, is deemed unlawful and prohibited.

As the Act has provided the Competition Board with the power and duty of issuing communiqué about which mergers and acquisitions should be notified to the Board for receiving permission in order to become legally valid pursuant to the paragraph 2 of the same Article, the “Communiqué on the Mergers and Acquisitions Calling for the Authorization of the Competition Board” No. 1997/1 which was accepted by the Board and published in the Official Gazette No. 23078 dated 12.08.1997, entered into force on 05.11.1997, according to the Article 10 on its entry into force.

In this case, it is compulsory that, from 05.11.1997, among the mergers and acquisitions under the Communiqué, any kind of mergers and acquisitions rendered subject to the permission of the Competition Board pursuant to the Articles 2 and 4 of the Communiqué are notified to the Board within a proper period before the operation (preferably 30 days in advance), and permission of the Board is obtained.

Notification shall be made in compliance with the provisions of the Communiqué No.1997/1, and Form-2 attached to it.

Mergers and acquisitions which have not been notified although they are subject to permission and for which the permission of the Board has not been obtained shall be examined by the Board, in accordance with the Article 11 of the Act. If the Board decides that the mergers and acquisitions concerned fall within the scope of the Article 7, paragraph 1 of the Act upon conclusion of the examination, the Board, as well as imposing fines, shall decide on the termination of this operation concerning the merger and acquisition which is unlawful, and on taking other measures. If the Board concludes that the merger or acquisition concerned does not fall within the scope of the Article 7 paragraph 1, the Board shall impose fines on the parties concerned for their failure to notify a merger or an acquisition which comes under the Communiqué.

In this regard, among the mergers and acquisitions to be realized from 05.11.1997, those that come under the Communiqué No.1997/1 must be absolutely notified.

Right for Notification or Complaint

Article 8- According to the Article 9, paragraph 2 of the Act on the Protection of Competition, No. 4054, any real or legal persons, who have a legitimate interest, are entitled to file a complaint and so are the others concerned to notify the Board about the claims of contrariness to the Articles 4, 6 and 7 of the Act. Having

examined these applications, the Board shall notify the result to the applicants according to the provisions of the Article 42 of the Act.

Entry into Force

Article 9- This Communiqué shall enter into force at the date of its publication.

Implementation

Article 10- This Communiqué shall be executed by the President of the Competition Authority.