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**INTERACTIONS BETWEEN COMPETITION AUTHORITIES AND SECTOR REGULATORS –
Contribution from Türkiye**

- Session III -

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This contribution is submitted by Türkiye under Session III of the Global Forum on Competition to be held on 1-2 December 2022.

More documentation related to this discussion can be found at: oe.cd/icar.

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Interactions between Competition Authorities and Sector Regulators

– Contribution from Türkiye –

1. As it is stated in the Background Note of OECD on this topic, the subject matter of competition authorities and the sector regulators may overlap. As a consequence of playing in the same field inconsistent decisions may arise. Thus, inconsistency in the relevant sector may harm legal certainty. In order to eliminate inconsistency and to strengthen the legal certainty, interaction between competition authorities and sector regulators is precious. However, the primary concern of competition authorities and the regulating bodies may differentiate from time to time. While the competition authorities seek to enhance competition in all sectors unexceptionally, the sector regulators may take sector specific precautions opposing the general norms of the competition law. In the case of Türkiye, such an opposing practices of both parties in the field of music industry entail collaboration between Turkish Competition Authority and the Ministry of Culture of Republic of Türkiye.

2. There are seven professional associations in music industry and their primary concern is to protect the copyrights of their members. In Türkiye, there are seven professional associations in music industry established pursuant to code regarding the intellectual property rights. In general, these associations are obliged to protect the interests of their members composing of authors, creators, performing artists, producers of phonographs etc. Through a license agreement, the owner of an intellectual property right gives permission to associations to use the rights for a period of time without any permission. Therefore, the license allow the associations to legitimately use and sell the artworks protected by intellectual property rights and collect the money on behalf of its members. In return, the members of the associations take their shares from the pool as a royalty payment.

3. In the early 2000s several applications arrived to the Turkish Competition Authority claiming that these seven associations determine the reselling conditions of the licenses all together. Under ordinary circumstances these allegations may ring the cartel bells, however, the code regarding the intellectual property rights gives permission to seven professional associations in music industry to jointly determine the reselling conditions of the licenses. This kind of permission may seem contrary to the substantial rules and the essence of the competition law, however, it is granted by the legislation of the parliament.

4. When the interaction begins between Turkish Competition Authority and the Ministry of Culture?

5. The code regarding the intellectual property rights provides that if a dispute arises among the associations while determining the resale conditions, the reconciliation commission come together to negotiate the conditions. In this commission the Ministry of Culture has one representative, the Turkish Competition Authority has two representatives and each one of these association has one representative.

6. As it is guessed, the Turkish Competition Authority does not suggest any certain price to the associations as a competitive price. On the other hand, with the initiatives of the Ministry of Culture, as a part of its advocacy policy the Turkish Competition Authority

brings representatives of the associations together and inform them about the pricing strategies under collective dominance circumstances.

7. Thanks to cooperation between Turkish Competition Authority and the Ministry of Culture, associations set their prices in consideration of competition rules.