

# **COMMUNIQUE ON THE APPLICATION PROCEDURE FOR INFRINGEMENTS OF COMPETITION**

**(COMMUNIQUE NO:2012/2)**

## **SECTION ONE**

### **Purpose and Scope, Legal Grounds, Definitions**

#### **Purpose and Scope**

**ARTICLE 1 – (1)** The purpose of this Communiqué is to establish and announce the procedures and principles related to the applications to the Competition Authority, and the assessment thereof, which are filed in relation to the claims of infringement of articles 4 and/or 6 and 7 of the Act on the Protection Competition dated 7/12/1994 and numbered 4054.

#### **Legal grounds**

**ARTICLE 2 – (1)** This Communiqué is prepared in accordance with article 27, paragraph 1, sub-paragraph (f) of the Act no 4054 on the Protection of Competition.

#### **Definitions**

**ARTICLE 3 – (1)** In the application of this Communiqué,

- a) The Ministry shall refer to the Ministry of Customs and Trade,
- b) The Act shall refer to the Act no 4054 on the Protection of Competition,
- c) The Board shall refer to the Competition Board,
- ç) The Authority shall refer to the Competition Authority,
- d) Professional staff shall refer to the assistant competition experts, competition experts, chief competition experts, senior competition experts and professional coordinators.

## **SECTION TWO**

### **Application, Forms and Requirements for Application**

#### **Application to the Authority**

**ARTICLE 4 –** (1) Application to the Authority may be in the form of information, complaints and Ministry requests. Applications may be filed by natural persons as well as by institutions, organizations associations and similar legal persons.

(2) This Communiqué does not cover applications filed by public institutions.

(3) Applications made to public institutions and directed by those institutions to the Authority due to their relevance are also addressed under the scope of this Communiqué. In such a situation, the relevant public institution shall be notified that the application is taken under assessment, as well.

#### **Formal and substantive requirements**

**ARTICLE 5 –** (1) In principle, applications to the Authority must be filed in writing. Applications may be send by post, or they may be submitted to the Authority in person. Applications may also be filed via other methods such as e-mail, fax and phone. Such applications shall be treated as information. Verbal applications may also be recorded in an official report and treated as information by the relevant staff.

(2) **(Amended: OG-13/02/2016-29623)**<sup>1</sup> In principle, no action shall be taken concerning applications which, as a result of the assessment conducted by the relevant department, are found to lack the following elements or for which there are no examination requests:

a) In applications filed by natural persons, the name and surname, citizenship number, address, signature and, electronic notification address, if any, of the applicant,

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<sup>1</sup> The previous version of the amended paragraph is as follows: “(2) In principle, no action shall be taken concerning applications which, as a result of the assessment conducted by the relevant department, are found to lack the following elements or for which there are no examination requests:

a) In applications filed by natural persons, the name and surname, citizenship number, address and signature of the applicant,

b) In applications filed by legal persons, commercial title/business name, address, authorized signatures list of the legal person, and the signatures of those who have the authority to represent and bind the legal person, c) In applications filed via representatives, the original document authorizing the representative or a duly authenticated copy thereof, the address of the representative and the natural or legal person represented, and the signature of the representative”

b) In applications filed by legal persons, commercial title/business name, address, electronic notification address, if any, (undertakings which must have a notification address according to Electronic Notification Regulation should state), and Central Registration System (MERSİS) number (undertakings with MERSİS number should state), authorized signatures list of the legal person, and the signatures of those who have the authority to represent and bind the legal person,

c) In applications filed via representatives, the original document authorizing the representative or a duly authenticated copy thereof, the address of the representative and the natural or legal person represented, and the signature of the representative and electronic notification address, if any.

(3) The Authority may initiate proceedings on its own initiative concerning applications which do not meet the requirements listed above but which it deems to be of a serious nature.

(4) In principle, no action shall be taken in relation to applications which carry the elements listed in paragraph two, but which consist purely of abstract statements suggesting the existence of an infringement, which do not include concrete information and/or documents concerning the form, place and time of the infringement or the undertaking or association of undertakings for which an examination is requested, and which are found to have failed to establish its claims in a serious and sufficient manner.

(5) Applications shall be addressed in accordance with the schedule deemed suitable by the Authority in consideration of the means and priorities of the Authority.

(6) To the extent possible, applications which have common characteristics in terms of subject matter and undertakings concerned shall be handled together.

(7) The applicant may request to stay anonymous. In such a case, the identity information of the relevant party or any other information which may lead to the disclosure of its identity shall not be included in any of the correspondence made, including intraAuthority correspondence.

(8) In case the applicant requests confidentiality concerning the information and documents included in the application, the provisions of the Communiqué on the Regulation of the Right of Access to the File and Protection of Trade Secrets no 2010/3 published in the Official Gazette dated 18/4/2010 and numbered 27556 shall be applied.

## **SECTION THREE**

### **Assessment of the Applications and Notification of the Parties Concerned**

#### **Assessment of the Applications**

**ARTICLE 6 –** (1) If they deem necessary, professional staff charged with examining the application may contact the applicant via phone, e-mail, etc. in order to obtain more detailed information concerning the subject matter of the claim during the phase before a preliminary inquiry is initiated.

#### **Notification of the Parties Concerned**

**ARTICLE 7 –** (1) Information shall be given to the applicant or its representative within thirty days at the latest concerning the phases of those applications which meet the requirements listed in paragraph two of article 5. If, at this phase, no information was given concerning the results of the proceedings, the result obtained shall be notified separately.

(2) No notification shall be made to the applicants or their representatives for those applications which are found not to meet the requirements listed in paragraph two of article 5 by the relevant departments.

## **SECTION FOUR**

### **Final Provisions**

#### **Supplying false or misleading information**

**ARTICLE 8 –** (1) Legal action may be taken concerning those who intentionally supply false or misleading information in their applications to the Authority.

#### **Existing applications**

**TEMPORARY ARTICLE 1 –** (1) This Communiqué shall not be applicable to those applications submitted to the Authority before its entry into force.

### **Entry into Force**

**ARTICLE 9 – (1)** This Communiqué shall enter into force on the date of its publication.

### **Execution**

**ARTICLE 10 – (1)** The President of the Competition Authority shall execute the provisions of this Communiqué.

### **LIST OF AMENDING COMMUNIQUES**

<b>Official Gazette Date</b>	<b>Official Gazette No</b>	<b>Communiqué</b>
<b>13.2.2016</b>	<b>29623</b>	Communiqué (no 2016/4) amending the Communiqué (no 2012/2) on the Application Procedure for Infringements of Competition