Organisation for Economic Co-operation and Development

**DAF/COMP/AR(2018)17**

**Unclassified** **English - Or. English**

**3 May 2018**

**Directorate for Financial and Enterprise Affairs**
**COMPETITION COMMITTEE**

# Annual Report on Competition Policy Developments in Turkey

**-- 2017 --**

**6-8 June 2018**

This report is submitted by Turkey to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 6-8 June 2018.

**JT03431152**

# *Table of contents*

## 1. Executive Summary

1. Overall examination of the Turkish Competition Authority's (TCA) activities shows that in 2017 a total of 296 cases were finalized. Among these cases, 80 cases concerning competition infringements were finalized following preliminary examinations, preliminary inquiries and investigations conducted under the provisions of Articles 4 and 6 of the Act No 4054 on the Protection of Competition (the Competition Act), 32 cases were negative clearance/exemption decisions based on Article 5 and 8 of the Competition Act, and 184 cases were merger/acquisition/privatization/joint venture decisions based on Article 7 of the Competition Act.

2. Though we observed an increase in the total number of final decisions in 2016 following the significant decrease in 2015, the number for 2017 has decreased compared to last year. Even though we observed a decrease in the number of final decisions, the percentage change is approximately 9%, not suggesting a substantial change from the previous year. The corresponding number of final decisions for 2015, 2016 and 2017 were 282, 325 and 296 respectively.

3. The decrease in the number of final decisions for 2017 has been observed in all enforcement areas, predominantly in merger/acquisition/privatization/joint ventures, where the corresponding numbers for 2015, 2016 and 2017 were 158, 209 and 184 respectively. The number of finalized decisions for infringements of competition[1] in 2015, 2016 and 2017 were 89, 83 and 80 respectively. And, the number of exemption/negative clearance final decisions is down to 32 in 2017, from 33 in 2016 and 35 in 2015.

4. Regarding the decisions for infringements of competition, it is observed that in 2017, 44% of these cases were related to food, agriculture and livestock sectors, pharmaceuticals, health services and medical equipment sectors, information and communication technology sector and construction sector. A significant part of the exemption/negative clearance decisions finalized in 2017 stemmed from applications related to pharmaceuticals, health services and medical equipment sectors, finance sector, tobacco and alcoholic beverages sectors and insurance sector. These 4 sectors accounted for almost 66% of all the clearance/exemption decisions.

5. Concerning the sectorial distribution of final decisions on merger/acquisition/privatization notifications; food, agriculture and livestock sectors, energy sector, chemical products, transportation goods and services, information and telecommunication sector and machine and equipment sector were prominent ones in terms of total number of notifications. Even though all notifications in 2016 were cleared without conditions or remedies, in 2017 one transaction was blocked and two of them were cleared with conditions.

6. 2017 was a very active year for investigations. In 2017, TCA opened 26 investigations and concluded 16 investigations. The total amount of administrative fines for these infringements of competition cases amounted to 202.6 million Turkish liras approximately.

7. As for developing competition legislation, TCA continued its intense work in 2017. The priority in terms of regulation activities were given to the amendments

[1] Infringements of competition cases are anti-competitive agreements prohibited by Article 4 of the Competition Act and abuse of dominance cases prohibited by Article 6.

envisaged to be made to the Competition Act, aimed at implementing regulations parallel to the EU and developed country practices, increasing legal certainty for undertakings, decreasing red-tape, and directing TCA's resources to more severe competition infringements. The work on the "Draft Law Amending the Act on the Protection of Competition as well as some Laws and Statutory Decrees" prepared within that framework is currently under way at the Office of the Prime Minister. In addition, various secondary legislation was adopted and put into effect in 2017, including The Communiqué (no. 2017/1) Amending the Communique (no. 2010/4) on Mergers and Acquisitions Calling for the Authorization of the Competition Authority, Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector (Communiqué no. 2017/3), and the Guidelines Explaining the Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector. Moreover, work on secondary regulations is currently ongoing, particularly on the Guidelines on Vertical Agreements.

8. In 2017, within the framework of competition advocacy activities, TCA have concluded the sector inquiry on "TV Broadcasting in the light of Digitalization and Convergence" and conducted a seminar to share its findings and published the inquiry report on its website. These contributions served to reveal the competitive conditions and problems in the aforementioned sector and to develop proactive methods to deal with these problems, and we believe that they were very important both for TCA and the undertakings operating in the relevant sector. The sector inquiry on the hazelnut market which was initiated in 2016 has been carried on with additional analysis in 2017. The inquiry is anticipated to be concluded in 2018. Moreover, TCA have initiated three sector inquiries in 2017 which are on retail sector, fair organization sector and music sector. In addition, within the scope of competition advocacy activities, communication with the stakeholders has been maintained without interruption. The aim of this communication is to introduce competition law and policy as well as the activities of TCA to an audience as large as possible.

9. In 2017, TCA also continued its activities in the international arena. This is because, in a globalizing world, it is important for competition authorities to constantly communicate to ensure that competition law practices are established and continuously developed. Within this framework, TCA attended many international meetings, including those organized by the Organization for Economic Co-operation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), the International Competition Network (ICN) and European Competition Network (ECN), in which we found the opportunity to share the activities of TCA with other participants. Furthermore, TCA, in order to welcome its 20th anniversary organized "Competition Summit" international seminar on 30 October-3 November 2017 in Istanbul. Specialists of competition (senior officials of competition authorities and international competition organizations, academicians, private sector participants) across the world attended this event which we think created very beneficial results and further strengthened our relationships with our counterparts in other countries. As another effort in this respect, TCA has signed MoUs with Tunisian and Peruvian Competition Authorities to build formal cooperation channels.

10. Lastly, it must be emphasized that TCA is very aware of the importance of human resources in order to achieve the goals it has set for itself. It is only as a result of the work of the human resource that the tasks assigned to the Authority may be carried out in an efficient and productive manner. As a result of this awareness, TCA attaches great importance to the training of its personnel. Consequently, in 2017 as in the previous

years, professional staff were provided with opportunities to complete their master's degrees and to participate in various meetings abroad. As part of its continuous efforts to increase its staff's capacity, TCA has sponsored some of its case handlers' graduate degrees at the prominent universities such as Freie Universität and City University of London. In addition, in-service training programs organized in 2017 contributed to the professional and cultural development of the professional staff and other personnel. Furthermore, one of our case-handlers was seconded to the OECD in 2017.

## 2. Changes to competition laws and policies, proposed or adopted

### 2.1. Summary of the new legislations

#### *2.1.1. Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector (Communiqué no. 2017/3)*

11. Article 5 of the Competition Act on the Protection of Competition empowers the Competition Board to issue communiqués granting exemptions to particular types of agreements with certain conditions as a group and specifying the conditions in question. Within this framework, Competition Board has introduced different exemption rules for distribution agreements in the motor vehicle sector from other sectors. The aforementioned rules were previously regulated by the Block Exemption Communiqué on Vertical Agreements and Concerted Practices in the Motor Vehicle Sector, no. 2005/4, which was put into force on 01.01.2006 following its publication in the Official Gazette dated 12.11.2005 and numbered 25991.

12. However, the problems encountered in the application of the Communiqué no. 2005/4 created the need to investigate the impact of the Communiqué on the market, and a sector study was conducted within the Competition Authority in order to uncover the competitive structure of the motor vehicles sector and to assess the development of the sector through the years. The findings of the sector study revealed the need to make some amendments to the exemption rules applied to the distribution agreements in the motor vehicles sector.

13. Prepared in response to that need, the "Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector (Communiqué no. 2017/3)" was adopted with the Competition Board decision dated 19.01.2017 and numbered 17-03/36-RM(2), and was put into force following its publication in the Official Gazette dated 24.2.2017 and numbered 29989.

#### *2.1.2. Guidelines Explaining the Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector*

14. Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector (Communiqué no. 2017/3) was put into force following its publication in the Official Gazette dated 24.02.2017 and numbered 29989. "Guidelines Explaining the Block Exemption Communiqué on Vertical Agreements in the Motor Vehicle Sector", prepared in order to explain the considerations in relation to the implementation of the Communiqué and thus to minimize the uncertainties that may arise in the interpretation of the Communiqué by undertakings, was adopted and put into force on 19.01.2017.

## 2.2. Summary of the changes made to the existing legislations

### *2.2.1. The Communiqué (no. 2017/1) Amending the Communique (no. 2010/4) on Mergers and Acquisitions Calling for the Authorization of the Competition Authority*

15. The six years of application of the Communique no. 2010/4 on Mergers and Acquisitions Calling for the Authorization of the Competition Authority revealed a need for certain amendments in the Communiqué in question in order to ensure a more effective control of merger and acquisition transactions by the Competition Board. As a result of the studies conducted in response to this need, The Communiqué (no. 2017/1) Amending the Communique (no. 2010/4) on Mergers and Acquisitions Calling for the Authorization of the Competition Authority was adopted with the Competition Board decision dated 19.1.2017 and numbered 17-03/36-RM(2), and it was put into force following its publication in the Official Gazette dated 24.02.2017 and numbered 29989.

16. Communiqué no. 2017/2 introduces three amendments to the Communiqué no. 2010/4. The first of these amendments repeals the provision in Article 7.2 of the Communiqué no. 2010/4, which stated that the Board would renew the notification thresholds concerning which merger and acquisition transactions were subject to authorization every two years. The second amendment aims to improve the effectiveness of the provision in Article 8.5 of the Communiqué no. 2010/4, which was introduced in order to bring back-to-back/incremental/unnoticeable merger and acquisition transactions under Competition Board supervision, by expanding the scope of the regulation therein to cover a longer period (three years) and all transactions made by the same undertaking in that period within the same relevant product market. The last amendment seeks to eliminate uncertainties related to the period of notification to the Competition Board of merger and acquisition transactions realized as a result of the acquisition of control through security purchases from different sellers via serial transactions in the stock market, by adding a provision concerning the timing and conditions for notification of merger and acquisition transactions through stock market purchases to the Competition Board in Article 10 of the Communiqué no 2010/4, which regulates the notification of mergers and acquisitions.

# 3. Enforcement of competition law and policies

## 3.1. Action against anti-competitive practices, including agreements and abuses of dominant positions.

### *3.1.1. Summary of significant cases- Examples from the decisions on anti-competitive agreements*

*Booking.com Investigation [decision date: 05.01.2017, decision number: 17-01/12-4]*

17. Investigation to determine whether Booking.com B.V. (BOOKINGCOM) and its Turkish office Bookingdotcom Destek Hizmetleri Limited Şirketi (BOOKINGDOTCOM) violated Articles 4 and 6 of the Competition Act with their “best price guarantee” practice within the scope of the booking services they provide.

- Relevant Market (product; geographic): "online accommodation booking platform services market"; Turkey
- Findings: In order to assess the online accommodation booking platform services market, a sample of 60 facilities were selected and data from these facilities were evaluated. It was found that out of the 60 accommodation facilities in the sample, 59 worked with BOOKINGCOM, 51 with EXPEDIA, 47 with HRS and 27 with AGODA as online platforms. BOOKINGCOM and its rivals provide services to the accommodation facilities on the one hand and to the consumers looking for accommodation on the other, which makes the online accommodation booking platform services market a two-sided market. Evaluation of the market share of BOOKINGCOM saw that the market displayed a rather rapid growth, that between 2010 and 2014 BOOKINGCOM's market share tended to increase yearly unlike its competitors, while its closest rival EXPEDIA lost market power every year in contrast to BOOKINGCOM.

18. The decision stated that those agreements with "Most Favoured Customer" (MFC) clauses, also known in the literature as price parity clauses, may be addressed either under Article 4 of the Competition Act, in particular under the "Complicating and restricting the activities of competing undertakings..." provision, or within the framework of Article 6 of the Act, under abuse of dominant position through "exclusionary practices". In light of the fact that similar assessments would be made regardless of which article of the Act is deemed appropriate, MFC practices of BOOKINGCOM were addressed under Article 4 of the Competition Act within the scope of the investigation conducted.

19. The agreements signed between BOOKINGCOM and accommodation facilities place a price and quota parity obligation on the facilities concerned, with the section titled "Minimum Allocation and Parity". Additionally, in line with the "Best Price Guarantee" practice included in the same agreements, accommodation facilities guarantee to BOOKINGCOM that a better price for an equivalent room will not be offered online. It was assessed that the MFC provisions implemented by BOOKINGCOM reduced competition in the online accommodation booking platform services market in terms of commission rates taken, and foreclosed the market to competitors. Due to the relevant provisions, competing platforms are unable to get better prices and terms for rooms or larger quotas from accommodation facilities in return for lower commission rates, which restricts their opportunities to compete with BOOKINGCOM. The provisions under examination also restrict competition by complicating entry into the online accommodation booking platform services market and creating barriers to entry to the market. In the market where indirect network effects are also present, those accommodation facilities which conclude agreements with BOOKINGCOM are unable to reflect lower commission rates they pay as lower room prices or better terms. This undermines the economic incentive mechanism that would allow these facilities to work with new entrants who are trying to reach a critical volume threshold in order to become an efficient rival in the market. In terms of the activities of the accommodation facilities, MFC provisions restrict intra-brand competition, preventing facilities from selling the same hotel room at different prices through different channels. Prevention of price differentiation by accommodation facilities mean that they are unable to meet their costs efficiently and, in particular, prevent them from adapting to specific market conditions.

20. Since price and quota parity provisions also cover direct sales by accommodation facilities, the facility may be unable to sell vacant rooms at low prices to customers

arriving at the reception or through its own website or call centre. The relevant provisions also prevent accommodation facilities from offering unexpectedly vacant rooms at cheaper prices through competing platforms, where they can update prices faster when compared to the traditional channel. As a result of all of these considerations, it was found that inter-brand competition between accommodation facilities may be restricted as well. Due to the MFC practice, accommodation facilities are forced to make any discounts at all channels, which may undermine their incentives to cut prices.

21. Conclusion: It was decided that the provisions examined in the contracts BOOKINGCOM signed with accommodation facilities had restrictive effects on competition under Article 4 of the Competition Act, and it was concluded that an individual exemption under Article 5 of the Competition Act may not be granted to the contracts BOOKINGCOM signed with accommodation facilities, which include "price and quota parity" and "best price guarantee" provisions and thereof an administrative fine was imposed on the undertaking under Article 16 of the Competition Act.

*Pharmacies Member of Turkish Pharmacists' Association Investigation [decision date: 13.07.2017, decision number: 17-22/362-158]*

22. Investigation, upon the annulment decision of the Council of State, to determine whether Articles 4 and 6 of the Competition Act were violated by means of the Protocol on the Purchase of Pharmaceuticals by Persons covered by Social Security Institution (SSI) from Pharmacies Member of Turkish Pharmacists' Association (TPA 2012 Protocol) and practices depending on the Protocol through exclusive distribution and allocation of prescriptions according to an order-limit pattern among pharmacies

- Findings: The said investigation was conducted about TPA Izmir 3rd region pharmacists' chamber, Adana Pharmacists' Chamber, Bursa Pharmacists' Chamber, Adıyaman Pharmacists' Chamber, Antalya Pharmacists' Chamber, Uşak Pharmacists' Chamber and Giresun Pharmacists' Chamber.

23. SSI's activities within the framework of protocols signed with TPA are not regarded as activities of an undertaking under the scope of the Competition Act in the decision. Secondly, TPA and affiliated pharmacists' chambers are deemed as associations of undertakings according to the Competition Act.

24. The following points were taken into account while evaluating the practices regarding ordered prescription distribution within the framework of protocols signed between TPA and SSI: (i) TPA is a party to the protocol (ii) The role and responsibility of TPA Central Committee in the functioning of the system (iii) TPA Central Committee itself will impose the sanctions against pharmacies that do not comply with the system (iv) Regional pharmacists' chambers are obliged to comply with the decisions of TPA Grand Congress and Central Committee and in this sense TPA is like a superior board of pharmacists' chambers.

25. One of the bases of 2012 Protocol signed between TPA and SSI is Article 39 (j) of the Act no. 6643 and it is clear that TPA is authorized for the issue as per the said article. Moreover, in several court decisions, it is clearly stated that the protocol signed between SSI and TPA should comply with both legislation provisions, which the two parties are subject to, and other relevant legislation and legal rules. From this point of view, the content of the said protocol and the transactions TPA makes on the basis of this protocol should not be contrary to the Competition Act.

26. The prohibition on market allocation laid down in Article 4(1) (b) of the Competition Act applies to pharmacies as they are deemed as undertakings under the Act. Allocation of certain prescription groups among pharmacies according to "equal sharing" principle is contrary to the Competition Act. In the general preamble of the Competition Act, it is stated that the players in a competitive market work more efficiently by competing on the basis of price, quality and product variety, and economic efficiency obtained as a result will benefit consumers. The sale of medicine by pharmacies at the retail level may bring price competition; however, price competition between pharmacies is restricted to a narrow elbowroom, although not eliminated completely, because the prices of human medicine is determined directly by public authorities and the discounts on the determined prices are limited to certain amounts by the protocols signed between TPA and SSI. Thus, competition at the level of retail sale of human medicine moves substantially to provision of services. It is stated that ordered prescription distribution system regulated in Articles 3 and 7 of the protocols dated 2012 and 2016 and annex 4 thereof intends to prevent abuses in the listed prescription groups and ensure rational use of medicine. Medicine is provided by the next pharmacy according to the sequence and quota determined. In the order and quota system made for each prescription group, since the amount of prescriptions to be provided by pharmacies is determined, there is no reason for pharmacies to compete for offering services. Pharmacies do not have concerns that they will lose their customers in terms of medicine subject to ordered prescription distribution, so they do not have incentives to increase the quality of their services.

27. From the first complaint until now, the Board has not initiated an investigation about ordered prescription distribution and not imposed any administrative fines on TPA or regional pharmacists' chambers not because the Board found that those practices complied with the Competition Act but because those practices were based on secondary legislation such as Budget Implementation Instructions or Health Implementation Communiqués before 2007 and based on protocols signed between SSI, a public authority that cannot be deemed as an undertaking within the framework of the Competition Act and TPA as of the establishment of SSI.

28. Taking into account overall Board decisions, it is observed that the Board has not taken a favourable approach to ordered prescription distribution although it is based on secondary legislation. Moreover, the Board made evaluations related to prescription distribution within the scope of the protocol that the practice was inconvenient in respect of the Competition Act and it was decided that opinion letters about these findings and evaluations should be sent to public authorities that were related to the legislation, which formed the basis of the practices. Fulfilling its tasks for competition advocacy within the framework of the Competition Act, the Board informed the relevant public authorities and institutions that allocation of prescriptions was contrary to the letter and spirit of the Competition Act.

- Conclusion: It was decided that that as SSI is not regarded as an undertaking with respect of the subject of the file, the Protocol on the Purchase of Pharmaceuticals by Persons covered by Social Security Institution from Pharmacies Member of Turkish Pharmacists' Association signed between SSI and TPA and the related practices were not under the scope of the Competition Act, thus it was not possible to impose administrative fines on the associations of undertakings under investigation as per Article 16 of the same Act. However, in accordance with the provision of the decision of the Council of State Administrative Law Chambers that "[...] the protocol to be made between Turkish Pharmacists' Association and [...] Social Security Institution should comply with legislative provisions that both

parties are subject to as well as other legislative and legal provisions related to the subject", the Presidency was assigned to send an opinion to TPA, SSI as well as the Ministry of Health and Ministry of Labour and Social Security as they are also interested that the Competition Act and the relevant legislation should be taken into account in the Protocol on the Purchase of Pharmaceuticals by Persons covered by Social Security Institution from Pharmacies Member of Turkish Pharmacists' Association between SSI and TPA and the related practices.

*Corporate Loans Investigation [decision date: 28.11.2017, decision number: 17-39/636-276]*

29. Investigation to determine whether banks providing loans to corporate customers in Turkey violated Article 4 of the Competition Act via exchange of competitively sensitive information on the loan conditions of the current loan agreements.

- Relevant Market (product; geographic): Not defined; Turkey
- Findings: Following the leniency application of Bank of Tokyo-Mitsubishi UFJ Turkey A.Ş. (BTMU), an investigation was initiated concerning 13 banks; BTMU, Citibank A.Ş. (CITI), Deutsche Bank A.Ş. (DB), HSBC Bank A.Ş. (HSBC), ING Bank A.Ş. (ING), Istanbul Turkey Branch of JPMorgan Chase Bank N.A. incorporated in Columbia Ohio (JP), Merrill Lynch Yatırım Bank A.Ş. (BOFA), Istanbul Main Branch of Société Générale (S.A.) incorporated in Paris France (SG), Standard Chartered Yatırım Bankası Türk A.Ş. (SC), Sumitomo Mitsui Banking Corporation (SMBC), Istanbul Main Branch of The Royal Bank of Scotland Plc. incorporated in Edinburgh (RBS), Türk Ekonomi Bankası A.Ş. (TEB) and UBS AG (UBS)}. During the investigation process, on-sight inspections were made and it was found, depending on the correspondences obtained, that the undertakings were in communication regarding loan transactions conducted by more than one bank (multilateral loans). As a result of the evaluation of information and documents obtained from both on-sight inspections and information requests, it was concluded that regarding multilateral loans (syndication loans, club loans), the timing and content of the communication among banks as well as whether the customers were aware of that communication were important while handling the communication among banks in terms of Competition Law.

30. Depending on the investigation made within this framework, it was found that BTMU and RBS shared information about price and BTMU and ING shared information about price, amount, term and/or whether the Banks were participating in the loan transaction concerned. It was concluded that sharing such competitively sensitive information eliminated uncertainty about undertakings' future activities in the market and thus constituted a concerted practice/agreement that had the object of restricting competition.

- Conclusion: It was decided that BTMU Turkey, ING and RBS have violated the Article 4 of the Competition Act by exchanging commercially sensitive information for which administrative fines were imposed on ING and RBS. Whereas, BTMU was granted full immunity from fines according to Article 16/6 of the Competition Law, which sets out that the companies cooperating with the TCA may be immune from applicable fines, based on the qualification, efficiency and timing of such cooperation.

### *3.1.2. Summary of significant cases- Examples from the decisions on abuse of dominance*

*Mey İçki Investigation [decision date: 16.02.2017, decision number: 17-07/84-34]*

31. Investigation to determine whether Mey İçki San. ve Tic. A.Ş. (MEY İÇKİ) obstructed the operations of competing undertakings by putting pressure on rakı points of sale by means of concessions and certain practices, and violated the Competition Act by abusing its dominant position

- Relevant Market (product; geographic): "raki"; Turkey
- Findings: After examining the market share, brand (Yeni Rakı) and portfolio power of MEY İÇKİ as well as the barriers to entry, scale and scope economies and product availability levels in the market, it was concluded that MEY İÇKİ maintained its dominant position in the rakı market.

32. Within the framework of the violation claims, the discounts (and in a more general sense, concessions) by MEY İÇKİ and their effects on the purchases of the points of sales have been assessed. An examination of the practices under purchasing agreements showed that instead of standard targets and discounts, Agreement Bid Forms (ABF) included personalized targets and discounts specifically designed for each point of sale.

33. In case an undertaking like MEY İÇKİ sets personalized sales targets that increase significantly annually and aim nearly the entirety of the sales potential of the point of sale, if the point of sale feels itself bound to these targets, this may obstruct the access of competitors to the points of sale and may lead to de facto exclusivity. Discount rates specified in the agreement text are not directly reflected on the price for each purchase made by the point of sale from MEY İÇKİ. Instead, the points of sales progress is calculated periodically and the discount they earned are paid in lump. In case of MEY İÇKİ, it has been observed that the realization of target rakı purchases in the agreement are above 50% for the agreements signed with at-home consumption channel (off-premise points of sale) and on-premise consumption channel (on-premise point of sales). The fact that MEY İÇKİ pays the discounts as initial lump-sum payments or as periodic lump-sum payments depending on the realization of the target plays a role in the fact that points of sales mostly achieve the target purchase amounts specified in the agreement.

34. Thus, the high level of targets specified for points of sale in practice, the lump-sum payments, periodic calculation of progress payments and retroactive periodic progress payments as well as the fact that points of sale largely realize their agreement targets show that MEY İÇKİ's purchase agreements have turned into de facto target discounts.

35. When assessing MEY İÇKİ practices in terms of their effects, it was observed that a portion of the discounts implemented by MEY İÇKİ for points of sales are personalized target discounts and could be set according to the location of the customer. MEY İÇKİ practices are aimed at the final points of sale, which is the market where the product reaches the consumers. Discounts given to points of sales and concessions such as free of charge products aimed at excluding competitors target those points of sales which are important for the success of the rivals in the market and which realize large amounts of rakı sales.

36. The fact that MEY İÇKİ practices are aimed at important customers instead of all customers increases the risk posed by this practice to lead to restrictive effects on competition. Where potential competitors do not incur fixed costs, implementing exclusivity not for all points of sale but for the number of points of sale that would prevent potential rivals from reaching minimum scales of efficiency would make entry into the market harder. Similarly, MEY İÇKİ's exclusivity oriented practices would restrict competition by artificially increasing barriers to entry and expansion in the market.

37. Under the scope of the file, concrete documents were acquired indicating exclusionary behaviour and practices by MEY İÇKİ and it was concluded that MEY İÇKİ caused market foreclosure effects against its competitors both by means of discounts and its practices and behaviour related to visibility.

- Conclusion: It was decided that MEY İÇKİ; which holds dominant position in the rakı market, has violated Article 6 of the Competition Act by engaging in the following practices: (i) It provided discounts and other financial advantages to the on- and off-premises points of sales depending on the POS's realization of the rakı purchase targets, set at more than 80% of the total rakı purchases of the POS within a certain period, (ii) It provided periodic purchase targets for points of sale without purchasing agreements with MEY İÇKİ and provided discounts and other financial advantages depending on whether these targets were achieved, (iii) It provided discounts and financial advantages to points of sales in return for having shelf and visibility arrangements in the traditional channel points of sale to the advantage of MEY İÇKİ. Thereof an administrative fine was imposed on the undertaking under Article 16 of the Competition Act.

*Luxottica Investigation [decision date: 23.02.2017, decision number: 17-08/99-42]*

38. Investigation to determine whether Luxottica Gözlük Endüstri ve Ticaret A.Ş. (LUXOTTICA) violated Article 6 of the Competition Act, in response to the claim that the undertaking in question bundled certain products together, that it implemented discriminatory discount rates in its discount system, and thereby distorted competition at the retail level.

- Relevant Market (product; geographic): "the bulk sales of branded sunglasses", "the bulk sales of prescription eyeglass frames"; Turkey
- Findings: Eyeglasses used by consumers are classified in two categories, namely sunglasses and prescription optical glasses. LUXOTTICA offers products in both groups. Despite the fact that the two types of frames can be said to have a high level of substitutability in terms of supply, due to the key differences in the intended use and methods of purchase between the two, frames for sunglasses and prescription glasses constitute separate product markets. Those glasses with wholesale prices between 5 to 10 TL, which do not meet the required health criteria and which use significantly lower quality production materials than higher-quality, fashionable products are not included in the market. In addition, since eyewear retailers, department stores and clothing retailers directly sell the products they procure in their own retail stores, and since they do not make bulk sales to opticians and other retail glasses points of sales, they were found not to be competitors for undertakings which provide bulk products such as LUXOTTICA.

39. The investigation found that LUXOTTICA was significantly different than its rivals due to its strong position in the market, its wide product portfolio, its vertical integration and the financial power it wields. Its market share in leading chain opticians were in parallel to the market in general. Its strong portfolio, the brand power of Ray-Ban and the advertisement expenses not only strengthened the undertaking's dominant position, but it also served as a barrier to entry. Neither LUXOTTICA's nor its rivals' market shares showed any changes through the years. With the exception of a few optician chains, chains in general were far from constituting any type of countervailing buyer power, despite growing larger in the market. Moreover, even if they could get advantageous conditions individually, this would not be reflected on the scattered market. Within this framework, it was concluded that LUXOTTICA held dominant position in the market for the bulk sales of branded sunglasses.

40. The discount system mentioned in the claims was assessed separately in the categories of "refusal to supply," "price discrimination" and "creation of effective exclusivity" which are listed among examples of abuse. The assessment into refusal to supply allegations found that a significant portion of opticians continued their operations without selling LUXOTTICA products, which showed that, while important in terms of being able to operate in the market, LUXOTTICA products were not essential facilities. There are other undertakings in the market offering alternative products which may compete with LUXOTTICA's products. The fact that LUXOTTICA's products have equivalent products in the market also supports the observation that they lack the nature of essential facilities. It was also established, within the scope of the present case, that the relationship between the parties was a resale relationship, instead of one in which the provider supplies access to an input/infrastructure required to operate in the downstream market. Within that context, it was concluded that even though LUXOTTICA products were critical for opticians to maintain their operations, they did not constitute an essential facility as required for refusal to supply consideration under competition law. Therefore, it was found that the examined practices of LUXOTTICA could not be assessed as abuses of dominant position through refusal to supply.

41. The assessment into price discrimination stated that the discount rates implemented in LUXOTTICA's system did not involve setting discount rates according to whether customers worked with its competitors. On the other hand, the varying discounts implemented for the four customers examined under the file showed that the discounts were based on the purchase amounts and the corresponding buyer power of the undertakings concerned. Within this framework, it was concluded that the system utilized in these four customers could not be considered as "applying different conditions for equivalent transactions." In addition, neither does the practice fulfil the condition of distorting competition downstream, which is a prerequisite for finding a violation. As a result, it was concluded that the practice could not be evaluated as an abuse of dominant position through price discrimination.

42. Regarding the full-line forcing practice, it was stated that this would require an assessment to see whether the undertaking restricted competition in the market, and thus the access of final consumers to alternative products, by foreclosing the sales channels to its rivals, similar to exclusivity practices. Therefore, it was noted that the relevant analysis exactly corresponded with the evaluation of the discount system, and the market effects of these two aspects of the practice were addressed together. The discount system implemented by LUXOTTICA was also assessed with regards to effective exclusivity violations. On-the-spot inspections conducted could not uncover any documents clearly indicating that LUXOTTICA aimed to establish exclusivity or to foreclose its

competitors, but various e-mails were found urging a strict application of the discount system. LUXOTTICA's target-turnover based discount system is intended to improve loyalty by its retroactive, personalized characteristics with increasing rates. Therefore, the target-turnover based discount system implemented by LUXOTTICA must be assessed in terms of its impact of creating effective exclusivity. According to the analyses conducted under the present file, it was found that LUXOTTICA's full-line forcing discount system practices could affect a significant portion of the market, had exclusionary effects on competitors and opticians since it caused foreclosure far beyond LUXOTTICA's market share in customer purchases.

- Conclusion: It was decided that it was decided that LUXOTTICA violated Article 6 of the Competition Act, and thereof an administrative fine was imposed on the undertaking under Article 16 of the Competition Act.

### *3.1.3. Summary of significant cases- Example from the decisions on exemption and negative clearance*

*Card Storage Service of BKM Exemption Examination [decision date: 23.03.2017, decision number: 17-11/134-61]*

43. The examination to deal with the individual exemption request application of the Bankalararası Kart Merkezi A.Ş. (Interbank Card Centre - BKM) for the card storage service it provides. The card storage service comprising the subject matter of the notification is a service provided to those undertakings which receive repeated payments to ensure that payment can be made without requiring these undertakings to store the information for the card to be used for payment, by having another organization (BKM in the present file) store the relevant information for them.

- Relevant Market (product; geographic): "card data storage service market"; Turkey
- Findings: The notified card storage service is provided under the umbrella of the BKM, which was formed jointly by banks. While banks can create and develop, or otherwise independently outsource from external service providers the technologic infrastructure which represents a significant part of inter-bank competition, and thereby prepare the banking services provided to customers through this technological infrastructures, the fact that they chose to provide it under the body of BKM, which is an association of undertakings, causes some impact on competition in the above-cited services. In that sense, it was evaluated that any economic activity of the association of undertakings, namely BKM, which might affect competition between its own partners/members in the banking sector and in the secondary services supplementing banking services, which includes the service in question, would be in violation of Article 4 of the Competition Act. Therefore an individual exemption assessment must be made concerning BKM's card storage service.

44. The assessment, made under Article 5(a) of the Competition Act, determined that, in light of the contributions of card payments to the national and global economies, the notified storage service would lead to various economic and technical developments, such as creating cost advantages by decreasing operational requirements, eliminating security risks associated with card payments, ensuring prompt confirmation of collections, increasing success rates in collections, and preventing financial losses. As a result, it was

assessed that the relevant service met the requirement of Article 5(a) of the Competition Act.

45. The assessment of consumer benefit found that the BKM card storage service would have favourable aspects with positive effects on the consumer, such as decreasing costs and ensuring high security. Consequently, it was established that the requirement of Article 5(b) of the Competition Act stating that the consumer must benefit from the service was also fulfilled.

46. Following the entry into force of the Act no 6493, undertakings other than banks began to enter the payments market in general, and BKM's entry into the card data storage market was expected to incentivize other undertakings to invest and innovate. Therefore, it was assessed that, in the present case, the notified service also fulfilled the requirement of Article 5(c) of the Competition Act. However, some competitive concerns were also brought up, due to the fact that the relevant market was a newly forming one. Companies providing card storage services were in competition with BKM in various areas, including in relation to the markets related to banking and gaining member businesses. This could lead pose a risk of the banks promoting BKM and complicating the operations of other institutions when presenting BKM's card storage service. This was seen as another reason why the developments in the card data storage services market required supervision. In this respect, it was concluded that competitive conditions in the market should be monitored for a period of time, since the relevant market was a newly-emerging one, competitive conditions in the market could change rapidly, and negative effects on competition were likely.

47. The last requirement to be assessed was that of not limiting competition more than what was required. Within the framework of the notified BKM card storage service, member businesses were not put under any restrictive obligation such as non-compete, exclusivity, etc. The business was able to work with any organization offering a member business agreement. BKM did not intervene with the commercial relationship between the undertakings in question (such as contract negotiations, virtual POS usage conditions, commission negotiations, etc.) In this respect, it was evaluated that the notified service fulfilled the requirement of Article 5(d) of the Competition Act, which prohibits placing undue restrictions on competition.

- Conclusion: It was decided that despite its restrictive effects on competition, the card data storage service to be provided by BKM had positive aspects due to technical developments and consumers benefits it would cause, and therefore could benefit from individual exemption under Article 5 of the Competition Act. However, since the relevant market was an emerging one, the exemption in question would expire at the end of one year following the date of the decision herein.

## 3.2. Mergers and Acquisitions

### *3.2.1. Summary of significant cases- Example from the decisions on merger/acquisitions*

*Migros-Tesco Kipa Acqusition Preliminary (Phase I) Examination [decision date: 09.02.2017, decision number: 17-06/56-22]*

48. The preliminary examination conducted into the acquisition, by Migros Ticaret A.Ş. (MIGROS), of 95,495% of the shares of Tesco Kipa Kitle Pazarlama Ticaret Lojistik ve Gıda San. A.Ş. (TESCO KIPA), controlled by Tesco Overseas Investments Limited.

- Relevant Market (product; geographic): [vertical markets:]"off-premises beer," "cola drink," "orange (flavoured) soft drink," "plain soft drink," "packaged water," "fruit juice, fruit nectar and fruit drinks," "ice tea," "sports drinks," "energy drinks," "stationery materials," "raw vegetables and fruits," and "wholesale retail"; Turkey; [horizontal market:]"FMCG retailing"; local geographic markets
- Findings: The vertical markets expected to see an impact within the scope of the acquisition are "off-premises beer," "cola drink," "orange (flavoured) soft drink," "plain soft drink," "packaged water," "fruit juice, fruit nectar and fruit drinks," "ice tea," "sports drinks," "energy drinks," "stationery materials," "raw vegetables and fruits," and "wholesale retail" markets. The transaction has horizontal effects on the fast moving consumer goods (FMCG) organized retail and department store operation markets, where the operations of MIGROS and TESCO KIPA overlap.

49. Since customer attraction areas of stores are important in terms of FMCG retailing activities, the relevant geographical markets were determined on the basis of districts. Within this framework, the relevant geographical market for the FMCG organized retail market was defined as 76 districts where MIGROS and TESCO KIPA have overlapping operations. On the other hand, for the procurement markets, the relevant geographical market was defined as "Turkey".

50. As a result of the analysis conducted into the horizontal aspect of the acquisition, it was concluded that no competition concerns would arise in the "department store operation market" due to the transaction. In terms of the FMCG organized retail market, a dominance analysis was conducted in those districts determined to be the relevant geographical market, which included discount stores and stores operating in the organized retail market without m2 limitations, while the market shares calculated on the basis of square meters were taken into account where the parties of the transaction had overlapping operations. An assessment was conducted for the 29 districts where the markets shares of the parties would reach significant levels at 40% and beyond following the transaction. In terms of the other districts, it was found that market shares would increase beyond the 40% level according to 2016 data and MIGROS could become dominant in these districts due to the thresholds established by HHI criteria being exceeded. In addition, it was also found that the acquisition of TESCO KIPA by the national supermarket chain MIGROS would be a concentration of a type that would eliminate a close competitor. The assessments also took account of the fact that one of the three players in the multi-format was being acquired by one of its closest rivals. It was determined that products and services offered by the undertakings in the market were

substitutable, provided there was some overlap, and that these undertakings would not encounter competitive pressure for those products of MIGROS and KIPA which do not overlap with those of discount stores. With the exclusion of customers with brand loyalty, in the absence of a concentration in the local market, it is possible to switch suppliers and procure complementary services from suppliers. In light of the fact that buyers in the relevant market are individual consumers, it does not seem possible to talk about countervailing buyer power in the markets comprising the subject matter of the file.

51. The analysis of entry barriers showed that there were high barriers to entries at a competitive level in the retail sector. The file included district based assessments concerning potential market entries with a threshold of around 40%, and the decision found that the districts where the parties of the transaction would acquire high market shares posed competitive problems. Even though there was potential competition provided by discount markets in particular, it was concluded that the high market shares that would arise in the districts in question were sufficient to lead to dominant position. In addition, it was noted that no new discount markets were expected to enter the markets under consideration. In those markets which were found to be competitively problematic, potential sites must be integrated into the market in a timely manner, in a way that would fulfil the potential and sufficient criteria, in order to consider these sites entries into the organized retail market. In that sense, it seemed difficult to consider sites at the building plot and beginning of construction stages as sufficient and potential market entries. In light of the investment plans of the players in the sector, the sum of the markets shares of the parties exceed the 40% threshold in at least 9 districts, and the parties have decided to offer a remedy with divestiture and downsizing commitments.

52. The transaction was also assessed with respect to creation of anticompetitive coordination. First of all, it was found that the organized FMCG retailing market did not involve conditions similar to those encountered in the markets where horizontal coordination may be easily ensured and maintained. For the assessment in terms of potential vertical coordination following the transaction, MIGROS undertook certain commitments.

53. The assessment into the vertical aspect of the acquisition established that the transaction in question should not be authorized in the beer market. In order to eliminate vertical competitive concerns, MIGROS offered behavioural commitments. For the other markets with vertical overlap, it was determined that competitive concerns under Article 7 of the Competition Act would not arise.

54. It was found that the commitments presented by MIGROS concerning the vertical effects of the notified transaction were sufficient to eliminate any concerns which may arise as to the vertical aspect of the notified transaction.

55. The commitment package presented by MIGROS undertakes to divest some stores in order to address horizontal concerns. Following the divestitures in question, the total market shares of the parties in terms of districts fall below 40% according to the estimated growth calculations. In addition, the content and form of the text of the commitment was assessed within the framework of the Commitment Guidelines, and it was determined that they were sufficient to eliminate competitive concerns related to the transaction.

- Conclusion: It was decided that the notified transaction would create a dominant position or strengthen the existing dominant position in some districts where it resulted in concentration, and thus could lead to a significant decrease in

competition in the relevant market. It was also concluded that the transaction could strengthen the dominant position of Anadolu Efes Biracılık ve Malt Sanayii A.Ş., which is under the umbrella of the same economic entity with MIGROS, and thereby could lead to a significant decrease in competition. However, it was also decided that the commitments package presented by MIGROS was generally sufficient to eliminate the abovementioned concerns, and that the notified transaction should be authorized subject to the commitments package.

*UN RO-RO Final (Phase II) Examination [decision date: 09.11.2017, decision number: 17-36/595-259]*

56. The final examination regarding the acquisition by UN Ro-Ro İşletmeleri A.Ş. (U.N. RO-RO) of all of the shares in Ulusoy Deniz Taşımacılığı A.Ş., Ulusoy Gemi İşletmeleri A.Ş., Ulusoy Ro-Ro İşletmeleri A.Ş., Ulusoy Ro-Ro Yatırımları A.Ş., Ulusoy Gemi Acenteliği A.Ş., Ulusoy Lojistik Taşımacılık ve Konteyner Hizmetleri A.Ş. and Ulusoy Çeşme Liman İşletmesi A.Ş. (ULUSOY).

- Relevant Markets (product; geographic): (i)"ro-ro transportation"; ro-ro transportation lines between Turkey and Europe including the ro-ro lines departing from Istanbul, Izmir and Mersin (ii) "ro-ro port management services"; Turkey (Mersin, İstanbul, İzmir), Italy (Trieste) ve Fransa (Toulon, Sète) (iii)"shipping agency services"; Turkey
- Findings: The analysis regarding the market shares, the position of the undertaking in the market, entry barriers as well as actual and potential competition conditions revealed that UN RO-RO holds a dominant position in the market for ro-ro transportation market, which covers "ro-ro lines between Turkey and Europe including ro-ro lines departing from Istanbul, Izmir and Mersin". It was concluded that, following the acquisition in question, there would be two players left in the market instead of three; the concentration rate in the market would be higher; UN RO-RO would obtain a significant market power compared to its competitors as a result of the acquisition in question. Therefore, the notified transaction would restrict competition through unilateral effects created by strengthening the dominant position.

57. Moreover, the two-player structure to be formed following the transaction might restrict competition by means of coordinated effects because it would be easier for the competitors to estimate each other's activities and act accordingly in such market structure.

58. Buyer power, which can offset anti-competitive effects restricting competition significantly, does not exist in the market. The bargaining power of transporters who buy ro-ro services is limited in front of ro-ro transporters. In addition, potential competition that can exert competitive pressure in the market is weak. Although a few firms attempted to enter the market for ro-ro services between Turkey and Europe in the past, those undertakings were not successful. As a result of this failure to enter to the market, the duopoly in the market has been preserved for long years, which indicates that entrance and maintaining activities in the market is difficult.

59. In addition, price increase is possible due to the concentration to be created following the transaction. The concentration simulation made by the parties estimates that the average price of Çeşme-Trieste line operated by ULUSOY, which is the transferred party, will increase by 14% whereas the average price of the buyer UN RO-RO's three

lines departing from Istanbul and Mersin will increase by 2.7%. On the other hand, a very small increase of 0.2% is estimated in the lines operated by ALTERNATIVE, which is not a party to the transaction. The calculations made by Economic Analyses and Research Department estimate that the average price of Çeşme-Trieste line operated by ULUSOY will increase by 10.9%. The increase estimated for average prices of Pendik-Trieste, Mersin-Trieste and Pendik-Toulon lines operated by the acquiring party UN RO-RO will be 2.1% whereas the increase estimated for average prices of Alsancak-Sète and Haydarpaşa-Trieste lines operated by ALTERNATIVE, which is not a party to the transaction will be 0.2%.

60. With respect to "ro-ro port management services market", the analysis revealed that UN RO-RO will have (....) % market power in the market for port management services for ro-ro ships and the change in the HHI will be 1293. Those values indicate a possible concentration in the market according to the principles laid down in the relevant Guidelines. The vertically integrated structure will be strengthened as a result of the transaction and this also increases competition concerns. The potential competition limited due to entry barriers is far from eliminating those concerns. Within this framework, after the transaction UN RO-RO will be dominant in the market for port services for ro-ro ships in Turkey (Mersin, Istanbul, and Izmir), Italy (Trieste) and France (Toluon and Sète) capturing area.

61. With respect to "shipping agency services market", as stated in the previous Board decisions, there are not entry barriers and the number of players is high. According to the data of the Ministry of Transport, Maritime Affairs and Communication, there are 1176 shipping agencies in Turkey. Therefore, it was concluded that the notified transaction would not result in creating or strengthening a dominant position in the market for shipping agency services.

- Conclusion: It was decided that the notified transaction would not result in creating or strengthening a dominant position in the market for shipping agency services but would strengthen U.N. RO-RO's dominant position and thus significantly restrict the competition in the ro-ro transportation market and also would create dominance in the market for ro-ro port management which means the competition in these markets would significantly lessen and therefore the notified acquisition shall not be cleared.

## 3.3. Opinions

62. TCA has provided various opinions concerning implementation or amendments in legislation in 2015, in accordance with Articles 27(g) and 30(f) of the Competition Act[2]. The total number of opinions send to government bodies in 2017 was 25. Out of 25 opinion requests, nine of them were about a specific sector and the rest were general opinion requests. Three of the sectoral opinions sent were for energy sector, two were for transportation, vehicles and services sector, two of them were for information and communication technology sector, one for waste management and improvement sector and one for tobacco and alcoholic beverages sector.

[2] Article 27(g) empowers the Competition Board to opine, directly or upon the request of the Ministry of Customs and Trade, concerning the amendments to be made to the legislation with regard to the competition law whereas Article 30(f) empowers the Presidency of the TCA to opine about decisions to be taken as to the competition policy, and the relevant legislation.

# 4. Resources of the TCA

## 4.1. Resources overall

### *4.1.1. Annual budget (in TL and USD)*

63. Revenues of the TCA are determined by the Competition Act as follows in Article 39. According to this article, revenues of the TCA set up the budget of the TCA, and they are made up of the following items of revenues:

- The subsidy to be allocated in the budget of the Ministry of Customs and Trade,
- Payments to be made by four per ten thousand of the capitals of all partnerships to be newly established with the status of an incorporated and limited company, and that of the remaining portion in case of capital increase,
- Publication and other revenues.

64. Revenues belonging to the TCA are collected in an account to be opened in the Central Bank of the Republic of Turkey or a state bank.

65. The spending budget of the TCA in year 2017 was 78 million TL, approximately 21.4 million USD[3].

66. Moreover, although it is provided for in Article 39 of the Competition Act, there has not been a subsidy in the budget of the Ministry of Customs and Trade and the TCA has not taken any aid from the general budget transfer scheme since its establishment in 1997.

### *4.1.2. Number of employees (as of 31 December 2017)*

- Non-administrative competition staff: 155
- All staff combined: 369

## 4.2. Human resources (person-years) applied to: Enforcement against anticompetitive practices, Merger review and enforcement; Advocacy efforts.

67. TCA was not structured as to assign staff with respect to competition enforcement activities. Rather the staff is divided into five main enforcement departments which are assigned sectoral areas. Any merger filings or antitrust infringement complaints regarding a sector are delivered to the head of the department assigned to that sector. Then the department head distributes cases to competition NAC staff for analysis. There is also NAC Staff employed in External Relations, Training and Competition Advocacy; Information Management, Strategy Development and Decisions Departments.

## 4.3. Period covered by the above information:

- 2017

[3] The average annual exchange rate for 2017 was used.

# Annex A. Statistical Information for the Year 2017

**Table A A.1. Files Concluded**

| Year | Anti-competitive Agreements (Art.4) and Abuse of Dominance (Art.6) | Exemption/Negative Clearance | Merger/Acquisition/Joint Venture/Privatization | Total |
|---|---|---|---|---|
| 2015 | 89 | 35 | 158 | 282 |
| 2016 | 83 | 33 | 209 | 325 |
| 2017 | 80 | 32 | 184 | 296 |

**Table A A.2. Files Concluded Under the Scope of Articles 4 and 6 of the Competition Act**

| Year | Article 4 | Article 6 | Mixed (4 and 6) | Mixed (4,6 and 7) | Total |
|---|---|---|---|---|---|
| 2015 | 41 | 29 | 19 | - | 89 |
| 2016 | 41 | 29 | 13 | - | 83 |
| 2017 | 37 | 29 | 13 | 1 | 80 |

**Table A A.3. Horizontal and Vertical Agreements Examined under the Scope of Article 4 of the Competition Act**

| Year | Horizontal | Vertical | Together (H/V) | Total |
|---|---|---|---|---|
| 2015 | 32 | 28 | - | 60 |
| 2016 | 26 | 28 | - | 54 |
| 2017 | 36 | 15 | - | 51 |

**Table A A.4. Results of the Applications Regarding Exemption and Negative Clearance**

| | Concluded Negative Clearance Files | | | Concluded Exemption Files | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Applications that are granted Negative Clearance | Applications that are granted Negative Clearance with Conditions | Applications that are not Granted Negative Clearance | Cases including Agreements that are granted individual exemption | Cases including Agreements that are not Granted Exemption and Required Corrections | Cases including Agreements that are Under The Scope of Block Exemption | Cases including Agreements that are Granted Individual Exemption with Conditions | Cases including Agreements that are under the scope of Block Exemption after conditions | Cases including Agreements that are not granted exemption | Cases including Agreements from which exemption was withdrawn | Cases including Agreements where individual and block exemption were evaluated together |
| 2015 | 6 | - | - | 18 | - | 6 | 1 | - | 3 | - | - |
| 2016 | 8 | 1 | - | 10 | - | 2 | 4 | - | 3 | - | 3 |
| 2017 | 3 | - | - | 19 | - | 3 | 3 | - | 2 | 1 | 1 |

**Table A A.5. Number of Merger and Acquisition Decisions**

| Year | Merger | Acquisition | Joint Venture | Privatization | Total |
|---|---|---|---|---|---|
| 2015 | 1 | 124 | 25 | 8 | 158 |
| 2016 | 7 | 161 | 32 | 9 | 209 |
| 2017 | 6 | 141 | 32 | 5 | 184 |

**Table A A.6. Results of Merger and Acquisition Notifications**

| Year | Cleared | Cleared Under Conditions | Blocked | Out of scope (not satisfying the thresholds) |
|---|---|---|---|---|
| 2015 | 132 | 3 | 1 | 22 |
| 2016 | 177 | - | - | 31 |
| 2017 | 150 | 2 | 1 | 30 |

**Table A A.7. Fines Imposed (TL)**

| | Year | Anti-competitive Agreements and Abuse of Dominance | Merger/Acquisition | Exemption/Negative Clearance | Other | Total |
|---|---|---|---|---|---|---|
| Fines related to substance | 2015 | - | - | - | - | - |
| | 2016 | 186.435.909 | - | - | - | 186.435.909 |
| | 2017 | 199.430.270 | - | - | - | 199.430.270 |
| Fines imposed on executives | 2015 | - | - | - | - | - |
| | 2016 | - | - | - | - | - |
| | 2017 | - | - | - | - | - |
| False or misleading information in an application | 2015 | - | - | - | - | - |
| | 2016 | - | - | - | - | - |
| | 2017 | - | - | - | - | - |
| False or misleading information given during on the spot inspections | 2015 | - | - | - | 33.500 | 33.500 |
| | 2016 | 7.551.954 | - | - | - | 7.551.954 |
| | 2017 | - | - | - | 36.754 | 36.754 |
| Finalizing a transaction without permission of the Competition Board/Failure to notify within due date | 2015 | - | - | - | - | - |
| | 2016 | - | 31.236 | - | - | 31.236 |
| | 2017 | - | - | - | - | - |
| Incompliance with the decision of the Competition Board related to Article 9 | 2015 | - | - | - | - | - |
| | 2016 | - | - | - | - | - |
| | 2017 | - | - | - | - | - |
| Hindrance of on the spot inspection | 2015 | - | - | - | - | - |
| | 2016 | - | - | - | - | - |
| | 2017 | 3.120.137 | - | - | 105.272 | 3.225.409 |

*Note*: The table does not reflect new fines in the files annulled by the Council of State, the high administrative court.

**Table A A.8. Judicial Review Statistics According to Result**

| Year | Number of Court Judgments | Number of Favorable Judgments | Number of Unfavorable Judgments | Other* | Unfavorable/Total |
|---|---|---|---|---|---|
| 2015 | 98 | 82 | 12 | 4 | 12% |
| 2016 | 89 | 67 | 15 | 7 | 17% |
| 2017 | 131 | 115 | 9 | 7 | 7% |

*Note*: According to Article 55 of the Competition Act "Suits shall be filed against administrative sanctions before the competent administrative courts. All types of suits filed against Board decisions shall be deemed a priority matter". Prior to 2012 the (only) appeal court for Competition Board's decisions was Court of State; the amendment in 2012 determines administrative courts in Ankara as the first instance court.
*Note**: The "Other" heading contains the judgments which were accepted as non-filed, dismissals of petitions, dismissals on the ground of competence, partial acceptance and partial dismissal cases, and the cases where the court did not make a ruling due to abandonment of action or other reasons are collected under the "Other" heading.