

From the Presidency of Competition Authority,

COMPETITION BOARD DECISION

File No : 2022-6-014 (Investigation/Settlement)
Decision No : 23-32/630-212
Decision Date : 20.07.2023

A. THE MEMBERS IN ATTENDANCE

Chairman : Birol KÜLE
Members : Ahmet ALGAN (the Deputy Chairman), Şükran KODALAK,
Hasan Hüseyin ÜNLÜ, Ayşe ERGEZEN,
Cengiz ÇOLAK, Berat UZUN

B. RAPPORTEURS: Mehmet Yavuz GÜNER, Elif Sıdıka SARI YILDIZ, Alican KORKMAZ, Merve KIZILYAR, Fatih ARSLAN, Mehmet Fatih BAŞARICI, Mustafa Caner GÜREL, Kamil Enes PÖGE, Ahmet Burak KARADUMAN, Gizem ÖZSÖZ, Meliha CEYLAN

C. COMPLAINANT : - There is a request for confidentiality.

D. RELEVANT PARTY : - Arabam Com İnternet ve Bilgi Hizmetleri AŞ

İçerenköy Mah. Eski Üsküdar Cad. VIP Center No:10 K:6
Ataşehir/İstanbul

- (1) **SUBJECT OF THE FILE:** Terminating the investigation conducted on Arabam Com İnternet ve Bilgi Hizmetleri AŞ, as a result of the settlement text sent by Arabam Com İnternet ve Bilgi Hizmetleri AŞ, based on the interim settlement decision dated 13.07.2023 and no 23-31/612-MUA, within the scope of the investigation conducted per the decision of the Competition Board dated 21.07.2022 and no 22-33/528-M for determining whether Arabam Com İnternet ve Bilgi Hizmetleri AŞ, Vava Cars Türkiye Otomotiv AŞ, Letgo Mobil İnternet Servisleri ve Ticaret AŞ and Araba Sepeti Otomotiv Bilişim Danışmanlık Hizmetleri Sanayi ve Ticaret AŞ, which are operating in the purchase and sale of used passenger cars (automobiles) through online platforms, violated Article 4 of the Act no 4054 on the Protection of Competition with various practices.
- (2) **F. THE SUMMARY OF THE ALLEGATIONS:** The allegation that Arabam Com İnternet ve Bilgi Hizmetleri AŞ violated Article 4 of the Act no 4054 on the Protection of Competition (the Act no 4054) by restricting competition in the digital marketplace for used cars with negative keyword agreements for (ARABAM.COM) Google text ads.
- (3) **G. STAGES OF THE FILE:** The Preliminary Examination Report dated 15.04.2022 and no 2022-6-014/İİ prepared within the framework of the application, which entered the Competition Authority (Authority) Records on 24.02.2022, with the number 25655 was discussed in meeting of the Competition Board (the Board) dated 21.04.2022 and it was decided to initiate a preliminary inquiry about certain undertakings including ARABAM.COM with the number 22-18/302-M.
- (4) The preliminary inquiry report dated 06.07.2022 and no 2022-6-014/ÖA prepared within the scope of the said preliminary inquiry was discussed in the Board meeting on 21.07.2022 and it was decided to launch an investigation on ARABAM.COM, Vava Cars Türkiye Otomotiv AŞ (VAVA CARS), Araba Sepeti Otomotiv Bilişim Danışmanlık Hizmetleri Sanayi ve Ticaret AŞ (ARABA SEPETİ) ve Letgo Mobil İnternet Servisleri ve Ticaret AŞ (LETGO OTOPLUS) with the number 22-33/528-M pursuant to the Article 41

of the Act no 4054 for the determination of whether the Article 4 of the Act no 4054 was violated.

- (5) On-site inspections were carried out in the premises of undertakings party to the investigation on 02.08.2022 and 03.08.2022 within the scope of the investigation, and the "Investigation Notification, Request for Defense and Request for Information" were notified in person, and ARABAM COM's first written defense entered the Authority records on 01.09.2022 and with the number 30811.
- (6) Then, a request to extend the period of the investigation by six months was submitted to the Board with the Information Note dated 26.12.2022 and no 2022-6-014/BN-06 and per the decision of the Board dated 29.12.2022 and no 2257/896-M the investigation period was extended for 6 months as of the end of the investigation period.
- (7) Taking into consideration the procedural benefits that would be derived from the rapid termination of the investigation process, the Board took the decision no 23-28/560-MUA in its meeting on 22.06.2023 to invite ARABAM.COM to settlement in accordance with Article 5 of the Regulation on the Settlement Procedure Applicable in Investigations on the Agreements, Concerted Actions and Decisions Restricting Competition and Abuse of Dominant Position (Settlement Regulation). In this regard, the relevant settlement invitation dated on 23.06.2023 and no 67328 was notified to the party. ARABAM.COM stated that it wanted to participate in the settlement negotiations and continue the process in the letter dated 06.07.2023 no 40193, which entered to the Authority records pursuant to the Paragraph 3 of the Article 43 of the Act no 4054.
- (8) Following the Board decision on the commencement of the settlement negotiations, the settlement negotiations were made with the officials and representatives of ARABAM.COM on 04.07.2023. The information note dated 11.07.2023 and no 2022-6-014/BN-11 prepared within the framework of the information and documents obtained within the scope of the file was discussed in the Board meeting dated 13.07.2023 and the interim settlement decision no 23-31/612-MUA was taken.
- (9) The relevant decision was notified to ARABAM.COM on 13.07.2023 and, the settlement text prepared by the undertaking based on this decision entered the Authority records on time with on 18.07.2023 with the number 40605.
- (10) In the said settlement text, ARABAM.COM accepted the issues stated in the interim decision and requested that the investigation be terminated with settlement.
- (11) The information note dated 18.07.2023 and no 2022-6-014/BN14, which was prepared as a result of the mentioned process, was discussed, and a decision was made.
- (12) **H. RAPPORTEUR OPINION:** It is stated briefly in the relevant information note that the investigation on the ARABAM.COM could be concluded with settlement procedure within the framework of the settlement text submitted by ARABAM.COM based on the settlement interim decision of the Board dated 13.07.2023 and no 23-31/612-MUA.

I. EXAMINATION AND ASSESSMENT

I.1. Information about the Relevant Party (ARABAM.COM)

- (13) ARABAM.COM, which is entirely owned by İlab Holding, was established in 2016 in İstanbul with the purpose of purchasing, selling and acting as an intermediary in the purchase and sale of motorized and non-motorized land, air and sea vehicles; to this end, designing, purchasing and acquiring websites; operating and developing software and programs, providing institutional and individual website services, issuing invoices to internet end users, establishing a subscription system, mediating internet services,

purchasing and selling websites, acting as an intermediary, enabling the production and distribution of information, providing consultancy and publishing publications on the subject.

- (14) ARABAM.COM created a business model, with the launch of “trinksat” program in 2019 based on purchasing used passenger cars from end users using price offers generated through the algorithm. ARABAM.COM became a player operating in the market for purchasing and selling used cars via online platforms following the implementation of this business model. ARABAM.COM does not sell the cars it purchases to the end user; cars purchased through the trinksat service are sold to car dealers of the undertakings platform through different bid models. Briefly, ARABAM.COM has a website called “trinksat” where it sells the cars it owns and a platform called “arabam.com” where it provides only intermediary services. According to the information obtained from the undertaking, it is known that the biggest obstacle to having a competitively good position is the budget for marketing and investment.

I.2. Sectoral Information

- (15) The subject of the investigation concerns a gentlemen's agreement made between four rival undertakings that engage in the purchase and sale of used cars through online platforms to add each other's brand names to negative word lists in broad match, phrase match and exact match types in Google search advertising.
- (16) The subject of the said agreement is related to online advertising activities and the parties operate in the purchase and sale of used cars, thus, firstly sectoral information on the used car marketplace is provided, followed by information on the online advertising market.

I.2.1. General Information on the Used Car Purchase and Sale Market

- (17) The automotive sector is a leading sector in terms of product differentiation. There are different brands and models in terms of the criteria such as appearance, interior equipment and technical features. Competition is based not only on price. Factors such as effective marketing, the ability to respond quickly to changing demand, the ability to develop new models, product variety and the prevalence of the service network are very important in terms of competition in the market.
- (18) The automotive sector in Türkiye appears is built on two key segments: new cars sold through authorized distributors and used cars traded in the second-hand market. The main activities of the undertakings involved in the investigation are related to the purchase and sale of used cars; therefore, new car market is not focused on within the scope of the file.
- (19) Article 5 of the Regulation on the Trade of Used Motor Land Vehicles (Regulation) includes the provision *"More than three used motor land vehicle sales made directly or through intermediary within a calendar year are accepted used motor land vehicle trade unless otherwise determined by the Ministry."* When the provision is taken into consideration, it is seen that the "used vehicle trade" market is a large market with many players and that the market is therefore divided into many small parts among the players, having a complex structure. In this market, there are numerous players such as car dealers, individual sellers, rental companies and undertakings involved in purchasing and selling vehicles.
- (20) There are two channels in the used car purchasing and selling market in Türkiye: online and offline (traditional). There are many actors in these channels, such as car dealers,

fleet rental companies, undertakings engaged in online purchase and sale and online platforms. Due to the presence of such a variety of players involved in the provision of services related to purchase and sale of used cars, many business models have been created. Business models change according to factors such as macroeconomic parameters, supply-demand and the structure of the sector. There are differences among players in the manner of providing services depending on the business model chosen. Those who sell their own vehicles online or those that list their vehicles on their website and sell them in their showrooms can be given as examples of different business models used by undertakings engaged in online purchasing and selling of used cars.

- (21) Undertakings that purchase and sell used cars have different business models, and the market in general has a complex structure. In this context, given that used cars are purchased and sold through online and offline channels, it is deemed beneficial to do a substitution analysis on these channels.

I.2.1.1. The Substitution Relationship Between Online and Offline Channels in the Used Car Market

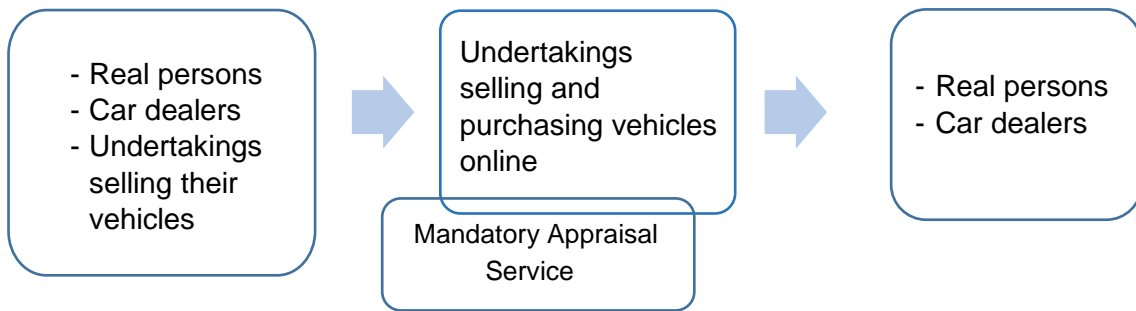
- (22) It is stated that undertakings which sell and purchase used cars in Türkiye are
- Online websites acting as an intermediary for used car trade, (like sahibinden.com),
 - Undertakings/car dealers that offer the used cars they own for sale physically or online
 - Websites that offer cars for sale through auctions,
 - Authorized dealers of brands that sell used cars.

The Board Decision dated 16.09.2021 and no 21-43/627-309 includes states, *“It is possible to classify business models in the sector as follows: (i) traditional sale model, which is presenting and selling physically, (ii) Displaying vehicles through online listings and completing the sale through the traditional sales method and (iii) displaying vehicles through online platforms and completing the sale through online channels.”* It is known that there is a transition between these business models, players operating in offline channels are expanding their service areas by switching to online platforms as a result of digitalization in today's world.

- (23) Players such as showrooms and car dealers that provide vehicle purchasing and selling services through offline (traditional) channels conduct their operations in physical environment. In addition to carrying out vehicle purchasing and selling activities in a physical environment, they can offer vehicles for sale simultaneously on various listing websites. The process of purchase and sale of vehicles through offline channels is as follows: a person who wants to buy a vehicle sees and tests it physically and decides to buy it and then makes a vehicle sales contract with the seller. In other words, this leads to longer information-gathering time and higher research costs for those seeking to buy or sell vehicles.
- (24) There may be differences from one undertaking to another in terms of service provision and operation through online channels. It is very difficult to talk about an exact market functioning due to the lack of a uniform practice. Undertakings carry out vehicle purchasing and selling activities through online channels by means of the websites they have established or advertisements they place on currently active platforms. Some undertakings sell vehicles only to corporate members whereas some sell to both corporate and individual members. Consumers can specify the price range, model, equipment, color, city, fuel type, etc. of the vehicle they want, via online channels, search

through numerous advertisements, can sort and follow the relevant advertisements according to price and advertisement date. In addition, as those who want to sell their vehicles have the opportunity to display their vehicles by posting their photos on various advertisement sites regardless of their location, and they also have the opportunity to sell their vehicles to undertakings that are engaged in online vehicle purchasing. It is observed that, compared to the online used vehicle purchasing and selling channel, the undertakings operating in the offline market are limited to the region, province or district in which they are located, and therefore their customer group is more limited. The steps of online purchasing and selling vehicle activity are indicated in the following diagram.

Figure-1: The Steps of Online Purchasing and Selling Vehicles



- (25) When the costs of used vehicle purchasing and selling activities in online and offline channels are examined, it is observed that the investment cost items included in the online purchase and sale of used cars service consist of the following: used vehicle purchase and sale authorization certificate obtained from the Ministry of Trade, expenses related to vehicle supply, vehicle storage and logistics activities, expertise expenses, expenses related to the visuals to be used in the listings, expenses related to the algorithm to be used to determine the prices in the most appropriate way and expenses related to the creation of the online medium (e.g. website). In addition to the abovementioned expense items, costs such as showroom rental fee and personnel expenses arise when used vehicle purchasing and selling activities are carried out offline. Essentially, it is seen that it is sufficient for undertakings providing services in online channels to have capital for vehicle purchase. Cost items other than inventory costs, which are among the main cost items, are relatively lower. However, undertakings that will operate in offline channels bear extra costs such as rental fees and personnel expenses. Another distinction between online and offline channels in the used vehicle purchasing and selling market is geographical accessibility. In this context, while the customer portfolio of an undertaking that carries out used vehicle purchasing and selling activities is countrywide while the field of activity of an undertaking that carries out used vehicle purchasing and selling offline will be limited to the region where it is located.
- (26) As a result, it is understood that online channels have distinctive features such as saving time, greater product variety and easier availability compared to offline channels in the used car purchasing and selling market. However, it is seen that the offline channel is not included in the market definition in the Board's decisions on online platforms.¹

¹ It is seen that offline channels are not included in the market definition in many of the Board decisions on platforms. See *Çiçeksepeti* decision dated 08.03.2018 and no 18-07/111-58, *Yemeksepeti* decision dated 09.06.2016 and no 16-20/347-156, *Booking* decision dated 05.01.2017 and no 17-01/12-4, *D-Market* decision dated 03.01.2013 and no 13-01/7-7, *Kariyer.net* decision dated 02.11.2011 and no 11-55/1442-516 and *Sahibinden.com* decision dated 08.07.2021 and no 21-34/475-237 and again *Sahibinden.com* decision dated 30.09.2021 and no 21-46/655-325.

Therefore, when the differences between online and offline channels in the used vehicle purchasing and selling market in the provision of services, product differentiation, product variety and access costs are considered that the two channels are not substitutes.

I.2.1.2. The Substitution Relationship Between Online Car Purchasing and Selling Undertakings and Intermediary Platforms

- (27) It is mentioned above that the used car market has a complex structure consisting of players with different business models. In this context, it would be appropriate to mention the distinction between the undertakings that sell the vehicles in their own possession, like the investigation parties, in the online channel of the used car market, and platforms like sahibinden.com, which provide only intermediary services for the purchase and sale of used cars. Sahibinden.com is an online platform that brings together those who post ads in many categories such as real estate, property and vehicles and those who demand these goods and services. Users who want to post an ad on Sahibinden.com are divided into two groups as individual and corporate users, and different pricing policies are applied for the intermediary service offered to each user group. Undertakings whose field of activity is the purchase, sale and rental of real estate and/or vehicles are called corporate customers whereas real persons who are not professionally engaged in the purchase, sale and rental of real estate and/or vehicles are called individual customers. The process of becoming a member of Sahibinden.com and posting an ad is simple, and ad fees vary based on category.
- (28) The parties to the investigation basically list the cars they purchase from users who want to sell their cars for sale on their own websites or platforms after doing maintenance and repair. Individual or corporate third parties cannot post advertisements on the websites of the undertakings and the undertakings deal directly with people who want to buy a car through their own websites.
- (29) Briefly, the fundamental difference between the activities of platforms offering intermediary services like sahibinden.com and the investigation parties can be explained as follows: The investigation parties -VAVA CARS, ARABAM.COM, ARABA SEPETİ and LETGO OTOPLUS- sell their cars, in other words, they act as online car dealers. However, platforms that provide intermediary services act only as intermediaries in bringing car buyers and sellers together. On the other hand, ARABAM.COM not only sells the vehicles it owns but also offers a listing platform service. It is considered that there is no substitution relationship between the online used car purchasing and selling activities of the undertakings under investigation and the platforms providing intermediary services. Therefore, intermediary services carried out by the undertakings under investigation, other than vehicle purchase and sale activities, are not included in the subject of the file.
- (30) As a result, in line with the sectoral information provided above, it is understood that the online channel and the offline channel differ from each other due to factors such as service provision, product differentiation, product variety and access costs and the activities of undertakings providing intermediary services and undertakings purchasing and selling cars are different in the online used car marketplace. In addition, the main field of activity of the undertakings that are parties to the investigation consists of the purchase and sale of used cars through online channels. In this context, with respect to the general structure of the market for online purchase and sale of used cars, it is seen in the calculations made by ARABAM.COM based on the estimated car purchase and sale numbers of the undertakings that a total of 34 thousand cars were purchased and

sold online in the sector in 2021. In addition, estimated market shares of the undertakings are presented. In this context, the estimated market shares presented by ARABAM.COM are given in the following table.

Table-1: Information on the Market Shares of Undertakings Engaged in Online Purchase and Sale of Used Cars (%)

Undertaking	Market Share (%)
ARABAM.COM	(.....)
VAVA CARS	(.....)
OTOKOÇ	(.....)
ARABA SEPETİ (KAVAK) ²	(.....)
LETGO OTOPLUS	(.....)
OTONET	(.....)
OTONAKİT	(.....)
OTOCASH	(.....)
Other	(.....)
Source: Response letter.	

- (31) The table above shows that the estimated market shares of the investigation parties ARABAM.COM, VAVA CARS, ARABA SEPETİ and LETGO OTOPLUS in the market for purchase and sale of used cars in 2021 are (.....)%, (.....)%, (.....)% and %(.....)% respectively, and ARABAM.COM ranks the first and VAVA CARS the second in terms of market share in the relevant market. When the data in the table is examined, it is seen that the market consists of many small undertakings having low market shares and a few large undertakings having high market shares. CR4 is (.....)% in the relevant market and (.....), given those factors, the structure of the market is narrow oligopoly.
- (32) According to the Online Second Hand Market Watch Reports³ prepared by INDICATA for 2022, the estimated market shares of the undertakings in the market for online purchase and sale of used cars prepared by the rapporteurs are provided in the following table.

Table-2: 2022 Estimated Market Share Information (%) of the Undertakings Purchasing Selling Online Used Car

Undertaking	Market Share (%)
ARABAM.COM	(.....)
VAVA CARS	(.....)
OTOKOÇ	(.....)
ARABA SEPETİ (KAVAK)	(.....)
LETGO OTOPLUS	(.....)
OTONET	(.....)
OTONAKİT	(.....)
OTOCASH	(.....)
Other	(.....)
Source: Prepared by the rapporteurs by considering response Letters and INDICATA data	

- (33) It is seen in the table above that market shares of investigation parties ARABAM.COM, VAVA CARS, ARABA SEPETİ and LETGO OTOPLUS in the market for online purchase and sale of used cars are respectively (.....)%, (.....)%, (.....)% and (.....)% and while

² ARABA SEPETİ, GARAJ SEPETİ and Carvak brand are the undertakings under the same economic unity with KAVAK.

³ [<https://www.indicata.com.tr/hakimizda/haberler-ve-medya>] Accessed: 21.02.2023

ARABAM.COM is the first, VAVA CARS is the second in terms of the market share in the relevant market. The data prepared by INDICATA includes the number of vehicle sales made by individual users on platforms that provide intermediary services like sahibinden.com, as well as the undertakings that engage in car purchase and sale in the online market. Therefore, it is understood that vehicle sales made on listing platforms by individual users who do not possess the status of undertaking have a significant place in total online vehicle sales.

I.2.2. General Information about the Online Advertising Sector

- (34) The most effective method for undertakings to reach their target audience more easily as well as to increase brand awareness and sales is advertising. Advertisements, which have an important place in the budgets of undertakings from past to present, have changed over time. In addition to advertising types such as television, brochures, and sponsorships, advertisements placed over the internet in recent years have made it possible to reach the target audience more quickly. The advertising methods used by undertakings to promote their brands and activities are generally divided into two categories: online and offline. In this context, in order to make a sound definition of the relevant market in terms of the investigation conducted, the examinations made on whether online advertising and offline advertising are substitutes are presented below.

I.2.2.1. Substitution Analysis for Online and Offline Advertising

- (35) Online advertising offers advertisers certain privileges including classifying their target audience according to criteria such as age, gender, education level, location, and interests, reaching their target audience quickly and effectively through personalized advertisements, and providing them with the flexibility to act in accordance with their budgets in line with the estimates about the interaction the advertisement will create. As a result of easier and faster performance analysis in online advertising, effectiveness in investments allows advertising with a lower budget.⁴ On the other hand, when advertisements are given, undertakings have to take into consideration criteria such as prime time and ratings in traditional channels such as television and radio, the mobility of the location of billboards and the circulation number in newspapers and magazines in offline advertising. However, it is seen that offline advertising costs vary depending on the channel through which they are given and there is no systematic structure. On the other hand, it is possible to reach a wider audience at a lower cost through online advertising compared to offline advertising.⁵
- (36) In addition to the differences between online and offline advertising mentioned above, it is stated in the Board decisions on *Google AdWords*⁶, the European Union Commission's (Commission) decisions on *Google/Double Click*⁷, *Viacom/Channel*⁸, *Microsoft/Yahoo Search Business*⁹ that online and offline advertising services constitute separate markets and the reason for this is that these two services differ in terms of reaching the target audience, reporting and pricing. In this context, it is concluded that online and offline advertising is not substitutes for each other in terms of receiving the

⁴ Dr. Parul Deshwal, "Online Advertising and its Impact on Consumer Behavior", Accessed: 07.03.2023

⁵ Dr. Parul Deshwal, "Online Advertising and its Impact on Consumer Behavior", Accessed: 07.03.2023.

⁶ Decision dated 12.11.2020 and no 20-49/675-295

⁷ [https://ec.europa.eu/competition/mergers/cases/decisions/m4731_20080311_20682_en.pdf] Access Date: 18.02.2023

⁸ [https://ec.europa.eu/competition/mergers/cases/decisions/m7288_20140909_20310_3881848_EN.pdf] Accessed: 18.02.2023

⁹ [https://ec.europa.eu/competition/mergers/cases/decisions/m4731_20080311_20682_en.pdf] Accessed: 18.02.2023

service, cost structure, reaching the target audience and the effectiveness gains from advertising.

- (37) The widespread access to the internet and the fact that mobile devices become an indispensable part of life also affect the advertising sector, and search and non-search advertising activities over the internet are added to traditional advertising. In addition, online advertising is preferred more due to the fact that personalized ads used in online advertising reach the target audience quickly and create brand awareness, that online advertising is less costly than traditional advertising methods such as sponsorship and offers more variety (such as video advertising, mobile advertising, e-mail advertising, social media advertising and search engine advertising) compared to traditional advertising. However, the global value of the digital advertising market, which includes ads on internet-connected devices such as computers, mobile devices and smart devices, is expected to reach USD 681.39 billion in 2023, with an increase of 13.1% from USD 602.25 billion in 2022. The estimated annual digital advertising growth rates for the next few years are expected to be 11% in 2024, 8.4% in 2025, and 6.8% in 2026.¹⁰
- (38) Briefly, from the information above, the following observations are made: online and offline advertising types are considered as separate markets within the framework of the Board and Commission decisions. In addition, the online advertising market provides access to a wider user base at lower costs than traditional advertising. The advertising agency is paid at one time regardless of the outcome in traditional advertising, whereas payment is made based on the interaction in online advertising. Results obtained from advertising policy are measured more easily in online advertising. Online advertising is effective and fast in reaching the target audience. Efficient investments can be made thanks to easier performance analysis. It is advantageous in creating brand awareness by reaching very large audiences quickly as a result of well-planned campaigns¹¹.
- (39) There are more than one different classifications of online advertising types. It is observed in the *Google/DoubleClick*¹² decision of the Commission that online advertisements are categorized according to selection mechanism¹³ (search, non-search and classified advertising), format (text, graphic, rich media) and distribution channel (direct or through an intermediary activity¹⁴). Online advertising is evaluated under four basic categories in the Commission's *Microsoft/Yahoo decision*¹⁵: format (text and image), device used, pricing mechanism and selection mechanism.
- (40) Similarly, in the OECD (Organization for Economic Co-operation and Development) report titled "Competition in the Digital Advertising Markets" it is stated that there are different ways to classify online advertising and online advertising is examined under two main categories: search advertising and online display advertising¹⁶. It is noted in the report that new forms of user-generated search advertising, such as native

¹⁰ [<https://www.oberlo.com/statistics/digital-ad-spend#:~:text=2022%20was%20the%20first%20year,it%20will%20hit%20%24876.1%20billion>], Accessed: 06.03.2023

¹¹ Dr. Parul Deshwal, "Online Advertising and its Impact on Consumer Behavior", Accessed: 06.03.2023

¹² Case COMP/M.4731-Google/DoubleClick, C (2008), p. 7

¹³ How an ad is selected for being displayed on a user's screen.

¹⁴ Some market participants refer it as indirect channel.

¹⁵ Case COMP/M.5727 - Microsoft/ Yahoo! Search Business, C(2010)

¹⁶ [<https://www.oecd.org/daf/competition/competition-in-digital-advertising-markets-2020.pdf>], p.13, Accessed: 07.03.2023

advertising¹⁷ and influencer advertising¹⁸ are offered by content providers and/or social media platforms. It is observed in the sectoral study of United Kingdom Competition Authority (*Competition and Markets Authority*, CMA), “Online Platforms and Digital Advertising” that digital advertising is most broadly classified as search advertising and display advertising¹⁹. In addition, online advertising services are examined in two sub-categories: search advertising services and non-search advertising services in the Board decision on *Modanisa*²⁰. In this context, the following section will provide information about search advertising and non-search advertising services.

1.2.2.2. Non-Search Advertising Services

- (41) Advertisements appearing on websites, social media platforms, online videos or online games for commercial or end users, or sent to relevant users via e-mail, constitute the type of non-search online advertising. Factors such as the number of clicks on the relevant websites where the advertisement is placed, the time users spend on the relevant website, and the profile of the users who spend time on the site (consumption habits, likes, etc.) are important and are closely monitored by both content providers and advertisers in non-search online advertising²¹.
- (42) Two methods are used in marketing advertising fields in non-search online advertising: direct and indirect sales. Websites may prefer to sell “premium” advertising fields - the most visited pages such as landing pages- directly through their own sales teams. Advertising areas that cannot be sold directly by sales teams of the websites are included in the portfolio of intermediary companies and sold to advertisers through the software method in the indirect sales method. Online virtual advertising platforms operating in the field of programmatic sales bring advertisers and content providers together in a virtual environment and mediate the marketing of advertising inventory that is not directly sold through software auctions²².
- (43) Another method used in non-search online advertising to provide relevant advertising fields is the real-time bidding (RTB) method, which has recently become widespread in our country and is a part of the programmatic purchasing universe. Real-time bidding is a technology that aims to enable advertisers to reach the right user at the right time with the right content.

1.2.2.3. Search Advertising Services

- (44) Search advertising is the display of advertisements related to searches made by commercial and/or end users (target audience) using certain words in search engines like Google on the search results page. When related users enter a query on the search engine, the search engine lists two types of results: organic results and sponsored links. Organic results are those determined by the search engine algorithm to be most relevant to users' searches. These results are generally arranged by relevance, and websites do

¹⁷ It is used to describe ads that appear identical to content in the user's news feed but are, in fact, paid.

¹⁸ These are paid advertisements that focus on influencing the purchasing behavior of the target audience by people who carry out promotional or marketing activities by sharing their experiences about any product/service with their followers through their social media and digital media channels, who have the power to influence and direct the masses, and who are accepted as authorities and/or experts by their followers.

¹⁹ [https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf], p.211, Accessed: 07.03.2023

²⁰ Decision dated 25.11.2021 and no 21-57/789-389.

²¹ Decision dated 25.11.2021 and no 21-57/789-389

²² Emircan AKSAKAL, “Çevrim İçi Reklamcılıkta Pazar Tanımı ve Muhtemel Rekabetçi Endişeler” Accessed: 22.12.2022

not pay anything to appear in these results. Sponsored results are search ads where websites pay for certain keywords to be featured among the results that match the search. In order to separate paid results from organic results, labels can be used (such as advertising or sponsored), or paid results may be located within colored/shaded boxes or in a clustered position above, below, or next to organic results. Advertisements are generally listed at the top of the results page followed by the organic results in searches on the Google search engine. While organic results are displayed based on objective criteria like relevance to the search term, paid results are displayed because the advertiser pays for this purpose. Therefore, advertisers select “keywords” that they deem relevant to their activities through Google Ads and trigger their own ads to be displayed on searches made by users.²³ However, it is stated in the Commission's report titled *“The use of online marketplaces and search engines by SMEs”* that two thirds of online sales undertakings accept that their position on the search results page has a significant impact on sales, approximately six out of ten undertakings use search engine optimization techniques to appear higher in search results²⁴. Therefore, it is understood that being at the top of the Google search engine is important for undertakings and undertakings are in competition within this scope.

- (45) Undertakings use search advertising extensively to attract new customers and create brand awareness. Search advertising is seen as an important way for consumers to discover competing product or service providers and compare their prices. A search engine determines which ads to display in response to a search partially based on the relevance of that search to “keywords” chosen by advertisers. Advertisers are free to choose any keyword(s) they wish, provided they pay a fee per click (CPC) for each click on the sponsored link. Since advertisers may be interested in the same keywords depending on the content of the advertisement, search engines sell these keywords through auctions. In other words, advertisers are allowed by search engines to purchase the same keywords, but advertisers bid against each other within the framework of the relevant tender to obtain a position in the sponsored results section of the search results page²⁵.
- (46) In this respect, it would be beneficial to mention Google's search advertising activities and the auction process that underlies these activities, as it is both the most well-known search engine in search advertising and the advertising medium that is the subject of the documents constituting the basis of the violation claim within the scope of the investigation.
- (47) Google Ads carries out its advertising policies based on four basic principles. According to this, Google Ads does not allow; (i) Advertisements containing imitation products that are identical or hardly distinguishable from the trademark of another undertaking, (ii) advertisements of dangerous products or services that may cause damage or injury, (iii) advertisements for hacking software or instructions, advertisements on services designed to artificially increase website traffic, (iv) finally, ads with inappropriate content that promotes hatred, intolerance, discrimination or violence.²⁶ If the undertakings do not contain the prohibitions specified in Google Ads policies, they will be able to create

²³ Joined Cases C-236/08 to C-238/08, Google France, Law Spokesman Poiarés Maduro Opinion Access Date: 02.02.2023

²⁴ European Commission Flash Eurobarometer 439 Report, “The Use Of Online Marketplaces And Search Engines by SMEs, [https://ec.europa.eu/information_society/newsroom/image/document/2016-24/fl_439_en_16137.pdf], s.4, Accessed: 07.03.2023

²⁵ Decision dated 25.11.2021 and numbered 21-57/789-389

²⁶ [<https://support.google.com/adspolicy/answer/6008942>], Accessed: 08.03.2023

their campaigns by selecting the keyword(s) related to their activities and will be able to advertise according to their budget with the auction method applied for campaigns valid during certain periods. Google Ads determines which ads will be shown every time a search is made on Google using the auction method. There are five main factors that determine which ad appears in which order in the ad auction: (i) bidding, (ii) ad quality, (iii) impact of ad components and other ad formats, (iv) ad rank, and (v) context of the ad.²⁷ In this context, the relevant factors that determine whether and when the advertisement will be shown to potential customers are explained as follows:

- Bidding: The maximum amount an advertiser is willing to pay for a click on an ad.
- Quality of the advertisement: a quality score on a scale of 1-10 based on how relevant and useful the ad and the website linked is for the user, who will see the ad, is created by Google Ads. Quality score includes expected click-through rate, ad relevance, and landing page experience. High quality ads can ensure lower costs and better ad positions.
- Impact of ad components and other ad formats: Google Ads estimates how the components²⁸ and other ad formats used by the advertiser will affect the performance of the ad. Thus, even if the competitor bids higher, the advertiser can gain a higher position at a lower price by using highly relevant keywords, ads and items.
- Ad rank and ad context: In order to help obtain high-quality ads, minimum quality thresholds that an ad should reach to be displayed in a particular ad position is determined by Google Ads. When ad ranking is calculated, the search terms entered by the user, the location of the user at the time the search is made, the type of device used (e.g. mobile or desktop), the time of the search, the nature of the search terms, other advertisements and search results displayed on the page, and other indicators and characteristics of the users are taken into account.

- (48) Briefly, the price that the advertiser is willing to pay per click when participating in a tender with the auction method is regarded as the bid. Advertisers pay Google the amount they bid in the tender or less when their ad is clicked by users. This payment is called cost per click (CPC). Google Ads takes into account both the bid and the quality score in the auction. In this context, Google Ads ranks the advertisements by making a calculation for the bid and quality score of the undertakings participating in the auction.

In this respect, the ad ranking can be formulated as follows:

$$\text{Ad Rank} = \text{Bid} \times \text{Quality Score}$$

- (49) Thus, the ad, which wins, is not always an ad, which offers the highest bid, even if an advertiser places the highest bid in an auction, the advertiser may not be ranked at the top. For example, it is possible for an advertiser who bids low but has a high quality score to win the tender against a competitor who bids higher but has a lower quality score (poor user experience, low click-through rate, etc.). An example calculation is given for ad ranking below:

²⁷ [https://support.google.com/google-ads/answer/6366577?hl=tr&ref_topic=6334440], Access Date: 08.03.2023

²⁸ Additional information such as phone number while forming the ad or links added for certain pages in the website are ad components.

Table-3: Calculation for Ad Ranking

Advertiser	Cost Price Per Bidding/Maximum Click (₹) (Max CPC)	Quality Score	(Ad Rank)
A	0,30	10	$0,3 \times 10 = 3$
B	0,60	4	$0,6 \times 4 = 2,4$
C	0,45	7	$0,45 \times 7 = 3,15$
D	1,25	2	$1,25 \times 2 = 2,5$

Source: Response letter.

- (50) The bid advertisers submit to Google Ads is the maximum cost per click they are willing to pay for that related keyword. As a result of the calculation that Google Ads makes based on the costs and quality scores of other advertisers; the amount paid by the advertiser is often lower than the bid (maximum cost per click) offered in the auction. The final amount that the advertiser is charged for a click is called the actual cost per click²⁹ (actual CPC). Here is an example of how to calculate the cost per click:

Table-4: Calculating the Cost per Click that an Advertiser Will Pay Actually

Advertiser	Bidding/Cost Price Per Click Max Click (Max CPC) (₹)	Quality Score	Ad Rank	Cost Per Click ³⁰ (Actual CPC) (₹)	
C	0,45	7	3,15	$3/(7+0,01)$	0,43
A	0,30	10	3,00	$2,5/(10+0,01)$	0,25
D	1,25	2	2,50	$2,4/(2+0,01)$	1,19
B	0,60	4	2,40	-	-

Source: Response letter

- (51) At this point, as it is mentioned above, factors such as the advertiser's bid, the impact of creatives and other ad formats, the click-through rate of users on brand ads related to their search, the relevance of the ad to the keyword, and the user's experience³¹ on the landing page of the relevant ad affect the cost advertiser will pay per click and the ad's ranking. It is observed in the example above that since quality score of the undertaking D, which offers the highest bid is low, it ranks the third in the advertisement and advertises at a lower price (₹1.19) than the price (₹1.25) it is willing to pay for the ad.
- (52) The rate showing the frequency with which users click on advertisement or free (organic) links of a website is defined as the click-through rate (CTR) on the results page of the Google search engine. The calculation for click-through rate is done as follows:

$$\text{Click Through Rate} = \frac{\text{The Number of Ad Clicks}}{\text{The Number of Ad Impressions}}$$

- (53) Click-through rate is important for measuring the effectiveness of the ad, in other words, whether the ad is found useful and relevant by users, and for revealing the performance of the keywords determined by the advertiser. In addition to the click-through rate, one of the rates that help advertisers measure the effectiveness of their websites through Google Ads is the bounce rate. When a user only sees one page or triggers only one event, Google Analytics considers it a "bounce." Bounce rate is the percentage of sessions that are considered bounces. When the bounce rate and click-through rate of

²⁹ Google charges the minimum amount per click that is actually enough to beat the next lower advertiser (i.e. achieve a higher ad rank).

³⁰ Cost Per Click = Competitor's Ad Rank / (Own Quality Score + 0.01)

³¹ Factors such as the time a user spends on a page, the bounce rate, scrolling through tabs and clicking.

a website are evaluated together, it is possible to have an idea about whether the users who click on the advertisement of the website see the content they expect to see on the relevant website.³²

- (54) Briefly, in relation to the ad services through Google Ads, it is understood that the undertaking which offers the highest bid in the auction may not always be at the top of the results page, ad ranking is created by taking into account the bid as well as the quality score, there are various factors that affect the quality score of a website, in this context, in terms of the relevance of the advertisement, which is one of the factors affecting the quality score, keyword selection should be made in a way that is relevant to the sector in which it operates, click-through and bounce rates give information about the user experience offered by the relevant website and indirectly affects the quality score of the website.

I.2.2.4. Match Types for Keywords

- (55) When the undertakings give search advertising, they choose keywords related to the searches they want their ads to appear on. Keywords may consist of generic words or registered trademark words depending on the sector in which the undertaking operates.³³ Additionally, a website that wants to advertise can determine how closely the keywords it has determined must match the searches made by users in order for its advertisement to be displayed. Keyword match types determine which user searches will trigger the keyword so that the ad can be evaluated within the scope of the auction.³⁴ The match types offered by Google Ads are basically divided into three basic categories: broad match, phrase match, and exact match. Additionally, there are match types such as “negative keyword match” where the advertiser can specify the keywords they want to ban in order to prevent their ad from being seen if searched. Detailed information on the relevant match types is located below.

I.2.2.4.1. Broad Match

- (56) Broad match focuses on the meaning of the search made by users rather than the exact text. In the event where the keyword is preferred as broad match in an ad, when the search engine determines that the search is sufficiently relevant to one of the keywords for which the advertiser is bidding and/or the relevant search contains any plural form of the keyword, synonyms or similar phrases, the user's search is matched with the relevant keyword and the relevant ad is displayed on the user's search results page.³⁵ Broad match type offers greater scale in determining on which searches the ad will be shown, in other words, if the search contains any words among the keywords specified by the advertiser, in any order, the user's search matches the relevant keyword and the relevant advertisement is displayed on the user's search results page.
- (57) Broad match is a match type where advertiser's traffic does not decrease since it allows the ad to be displayed even when users search for incorrect variations. Broad match constitutes one-third of Google search clicks and conversions. The Google Ads system constantly monitors the quality and performance factors of keywords and changes the

³² [<https://support.google.com/google-ads/answer/6332958?hl=tr>] Access Date: 08.03.2023

³³ Google terminated the prevention of using registered trademarks as keywords in terms of EU member states in 2009 and 2019. In other words, the use of brand names as a keyword which belongs to the third persons become free. Source: Zeynep YASAMAN, “Online Violation for Trademark in Turkish and European Union Law”

³⁴ [<https://support.google.com/google-ads/answer/7478529?hl=tr>] Access Date: 20.12.2022

³⁵ FTC Case No.18-3848, p.5.

variations that allow the ad to be triggered. Here's an example how the broad match type works:

Table-5: Example for broad match type

Key Word With Broad Match	Advertisements Can Be Indicated for the Following Researches
"Low carbohydrate diet plan"	Food without carbohydrate
	Low carbohydrate diets
	Low calorie recipes
	Mediterranean diet books
	Low carbohydrate diet program
Source: Google Ads Help Platform	

I.2.2.4.2. Phrase Match

- (58) When an advertiser prefers the phrase match type, the search engine can only display the relevant ad if the search contains the exact keyword. However, it allows adding words before or after the relevant keyword.³⁶ Phrase match is created by placing quotation marks (" ") at the beginning and end of the keywords, in this context, advertisements placed with phrase match keywords are shown on the results pages of searches made by the user using related words. An example is given below for the function of phrase Match:

Table-6: An Example for the Phrase Match Type

Phrase Match Key Word	Advertisements Can Be Indicated For the Following Researches	Advertisements Are Not Indicated For the Following Researches
“tennis shoes”	shoes for tennis	tennis rackets and sport shoes
	buy discounted tennis shoes	
	Red tennis shoes	can you wear running shoes for tennis?
	Comfortable tennis shoes	
Source: Google Ads Help Platform		

- (59) As it is seen in the example above, since the keyword phrase has a specific word order in the phrase match type, triggering the words that make up the keyword separately and displaying the ad on irrelevant searches are prevented. Indeed, ads related to the phrase "tennis shoes", which are specified as the keywords in the phrase match type, will be indicated in searches related to tennis shoes made by users. Therefore, ads are displayed only for searches that include the product or service in the phrase match type, and are displayed for more specific searches than in broad match.

I.2.2.4.3. Exact Match

- (60) Exact match is determined by writing the keyword in square brackets ([]). Exact match ads are displayed to users in searches made in the same order as the keyword(s) and/or in the closest variations of the keyword(s). The exact match type, which allows the advertiser to reach the target clearly, is also the most restrictive and specific match type. In other words, the exact match type can allow the advertiser to have a greater degree of control over users and/or target audience, making advertising activities more targeted

³⁶ FTC Case No.18-3848, p.9-10.

and thus resulting in an increase in click-through rate.³⁷ Here is an example how exact match works:

Table-7: Example for Exact Match Type

Broad Match Keyword	Advertisements can be shown for the following researches	Advertisements Are Not Shown For the Following Researches
[shoes for men]	shoes men	men tennis shoes
	Shoes for men	
	Shoes for men	Shoes for boys
	Shoes for men	
Source: Google Ads Help Platform		

I.2.2.4.4. Negative Match

- (61) Negative match is the case where an advertiser excludes certain words or phrases from their ad campaigns. In other words, negative match allows advertisers to prevent their ads to appear for searches containing certain keywords they choose. For example, an undertaking that sells cat food can prevent its ad to appear when users search for "baby food" by adding the word "baby" to the negative keyword list when advertising. Negative words can be determined according to broad match, phrase match and exact match types. In this context, it would be appropriate to talk about how negative keywords work in relevant match types.

i) Negative Broad Match

- (62) In the event of negative broad match, the ad is prevented from being displayed in searches that contain the specified negative keywords in a different order³⁸. However, if the negative match is in the form of a phrase, the relevant ads may still be displayed for searches that contain only one/some of the words in the phrase.³⁹ The results of entering the phrase running shoes into the negative broad match list are listed in the following table:

Table-8: Example for Negative Broad Match

Negative Broad Match Key Word	Searching	Can the Advertisement Be Shown?
Running shoes	Blue tennis shoes	✓
	Running shoe	✓
	Blue running shoes	X
	Shoes running	X
	Running shoes	X
Source: Google Ads Help Platform		

- (63) In the example above, when the advertiser adds the phrase running shoes to the negative keyword list in the broad match type, the advertiser's ad is not displayed for searches that include the words running shoes in a different order (shoes for running), but the advertiser's ad is displayed for searches that include only the word shoes (blue tennis shoes).

³⁷ Decision dated 25.11.2021 and numbered 21-57/789-389

³⁸ <https://support.google.com/google-ads/answer/7302703?hl=tr> Access Date: 12.12.2022

³⁹ CMA. (2017) "Digital Comparison Tools Market Study Paper E: Competitive Landscape and Effectiveness of Competition"

ii) Negative Phrase Match

- (64) When a word or phrase is designated as a negative keyword in a phrase match type by the advertiser, the advertiser's ads will not appear for searches that include the negative keywords in the same order (even if there are additional words). In other words, even if there are other words in the search, as long as all the keyword terms are found in the same order, the ad will not be displayed. However, if one/more words of the specified negative keyword phrase contain additional characters, the advertiser's relevant ads will be displayed in the search results even if the rest of the negative keyword phrase is found in the relevant search in the order in which the phrase is determined. The results to be displayed in the event the phrase 'running shoes' are entered into the negative ordered match list are given in the following table:

Table-9: Example for Negative Phrase Match

Negative Phrase Match Key Word	Search	Can the Advertisement Be Shown?
Running shoes	Blue tennis shoes	✓
	Running shoe	✓
	blue running shoes	X
	Shoes running	✓
	Running shoes	X
Source: Google Ads Help Platform		

- (65) The advertiser's ad is not displayed in searches that contain the same word order as the negative keyword phrase (blue running shoes) in the example above, where the phrase 'running shoes' is included in the negative keyword list in the phrase match type by the advertiser. However, the advertiser's advertisement is displayed as a result of searching for the phrase added to the negative keyword list with phrase match in a different word order (shoes, running).

iii) Negative Exact Match

- (66) When negative keywords are used in the exact match type, if the search contains the negative keywords in the exact match type, in the same order without any other words next to them, the advertiser's ad is not displayed in the search result. However, if there are other words in the exact match type along with the words added to the negative keyword list in searches made by users, the advertiser's ad is displayed on the search results page. When the phrase 'running shoes' is added into the negative exact match list, the results are in the following table:

Table-10: Example for the Negative Exact Match

Negative Exact Match Key Word	Searching	Can the Advertisement Be Shown?
Running shoes	blue tennis shoes	✓
	Running shoe	✓
	Blue running shoes	✓
	Shoes running	✓
	Running shoes	X
Source: Google Ads Help Platform		

- (67) As it is seen in the example above, when the keyword(s) are negated in the exact match type, the advertiser's ad is not displayed only when a one-to-one search is made with the relevant keyword, when another word appears next to the words that are negated with exact match or when the word order of the phrase that is negated with exact match

changes, the advertiser's ad is displayed in searches. Therefore, it is considered that negative exact match leads to fewer restrictions than negative phrase and negative broad match types in terms of displaying ad.

- (68) The sector inquiry on digital comparison tools published by the CMA⁴⁰ on the subject mentions that advertising restriction agreements have many positive and negative effects. The possible negative effects of such agreements are that the end consumers have to prefer among fewer options because they essentially reduce the visibility of competitors and competitors feel less competitive pressure. On the other hand, it is reducing the risk of free riding, preventing consumer confusion and providing advertising cost advantages may lead to some efficiencies.
- (69) It is stated that keyword advertising is similar to other important marketing methods widely used by competitors towards their customers, which increase competition and facilitate market entry in the research conducted by the University of Chicago⁴¹ on the importance of keyword advertising among competitors. The said research states that keyword advertising among competitors helps informing consumers, who search product and service through search engines, about competitive alternatives and comparing different product offers. There are opinions in the literature that such informative and comparative advertisements benefit consumers and that restricting such advertisements harms consumers; removing an easy reference for consumers to compare existing or new products without carefully weighing the potential costs and benefits would lead to significant decrease in consumer benefits. Additionally, consumers/users are likely to benefit from keyword advertising.

I.3. Relevant Market

I.3.1. Relevant Product Market

- (70) Basically, the allegations in the file are that undertakings operating in the market for online purchase and sale of used cars make a gentlemen's agreement to mutually determine negative keywords in order to prevent advertisements of rival undertakings from being displayed on the results page of Google searches containing their own brand names, and that they pressure their competitors to add their brand names to the negative keyword list.
- (71) When the fields of activity of the investigation parties are examined, it is seen that the undertakings have a business model in which they have used cars maintained and repaired after they purchase them, they sell the vehicles in their possession by posting advertisements on their own websites and/or car sales platforms (sahibinden.com, arabam.com, etc.) and for car purchases, they make appointments for real persons who want to sell their cars through the websites of the relevant undertakings and/or submit offers to car sales tenders organized by fleets.⁴² It is known that there may be some differences in the business models of the undertakings in the market for online purchase and sale of used cars, however, the notary process, which is a legal obligation during the sale of a car, is uniform. On the other hand, although there are nuances in the provision of services by the parties to the investigation, which engage in online

⁴⁰ Elisa V. Mariscal, David S. Evans, (2012), The Role of Keyword Advertising in Competition Among Rival Brands, The University of Chicago, https://chicagounbound.uchicago.edu/law_and_economics/570/, Accessed: 12.02.2023

⁴¹ David S. Evans, Elise V. Mariscal, (2012), *"The Role of Keyword Advertising in Competition among Rival Brands"*

⁴² Detailed information on the activity fields of the investigation parties is given in the section titled "General Information on the Used Car Purchase and Sale Market".

purchasing and selling of used cars, basically, they are deemed competitors in terms of the activities regarding online purchase and sale of used cars.

- (72) It is observed that e-commerce is developing in our country in parallel with the developments in the world due to reasons such as technological developments in recent years, increase in internet usage, consumers being able to shop without having to go to stores and thus saving time, protection of rights in online shopping with consumer laws, increase in trust in credit cards within the framework of regulations made with banking laws, and manufacturers saving on the costs they have to bear to open physical stores.⁴³
- (73) In today's world where digital transformation continues rapidly, the interest in and usage of online media is increasing in every sector, so is the desire of consumers around the world to access information and products in a shorter time. As internet use has become widespread across all age groups, increasing investments in digitalization by undertakings have enabled the rapid development of e-commerce. In addition, undertakings have begun to widely use online channels such as e-commerce platforms and direct to consumer (DTC) sales models to deliver their products to their target audience.
- (74) According to TÜSİAD's "Retail and Multi-Channel Research" data, when the number of undertakings operating in e-commerce by province in our country is examined, it is observed that most undertakings are located in Istanbul and the number of undertakings operating in e-commerce increased by 235% in 2020 compared to the previous year in Istanbul, the number of undertakings doing e-commerce enhanced to 106,054 in 2020⁴⁴. A total of 131,326 undertakings are conducting e-commerce activities in Istanbul in the first six months of 2021.⁴⁵ It is stated that e-commerce expenditures in Türkiye between 2016 and 2020 increased approximately 3.2 times when adjusted for inflation, it grew at a compound annual rate of 43% in the relevant period and reached 226.2 billion TL in 2020.
- (75) There are changes in the purchasing habits of consumers in e-commerce, which becomes increasingly important in people's lives with the Covid-19 pandemic. It is stated in the Authority's E-Marketplaces Sector Inquiry Final Report⁴⁶ that the main motivations for consumers to prefer online channels instead of physical stores are affordable prices (60.7% of participants), time saving (54% of participants), product variety (45.6% of participants), reliability (41.5% of participants) and not wanting to go into stores (37.8% of participants). It is stated within the scope of the same survey, the reasons that deter consumers from shopping online are as follows: 26.8% of the participants want to buy the product by trying/seeing/touching it, 22.7% think that it is difficult to return it, 20.3% are concerned about sharing personal data and 20.2% do not trust sellers and are concerned about being deceived.
- (76) It is stated in the *Modanisa* decision⁴⁷ of the Board that the relevant market is e-commerce platforms where the parties' fields of activity overlap, mainly in the clothing sector, for this reason; it can be defined as "*e-commerce services market*" in its broadest definition. However, due to the parties' activities focusing on modest ready-to-wear clothing, relevant markets are narrowly defined as the markets of "*e-commerce of ready-*

⁴³ The Board decision dated 05.11.2020 and no 20-48/658-289.

⁴⁴ ETBİS, 2019-2020 Statistics, 2020

⁴⁵ ETBİS, 2021 Statistics, 2021

⁴⁶ [<https://www.rekabet.gov.tr/Dosya/sektor-raporlari/e-pazaryeri-si-raporu-pdf-20220425105139595pdf>], p.53-54. Accessed: 09.03.2023

⁴⁷ Decision dated 25.11.2021 and numbered 21-57/789-389.

to-wear products" and *"e-commerce of modest ready-to-wear products"*. On the other hand, since the relevant Settlement Agreement covers online advertising auction processes, the relevant market is defined as the *"online advertising auction market"*.

- (77) Although there are differences in the business models of the investigation parties, their main activities consist of online purchasing and selling services regarding used cars and that they are competitors within the scope of the file. On the other hand, the fact that the main field of activity of the undertakings on the investigation is the online purchase and sale of cars and that the competition is currently concentrated on the purchase and sale activities for used cars is considered, it is concluded that the relevant product market, which is likely to be affected by the activities under investigation and which will be defined more narrowly, may be *"the market for online purchase and sale of used passenger cars"*. On the other hand, given that the allegations examined and the findings obtained within the scope of the investigation are related to the gentlemen's agreement between the undertakings that are parties to the investigation to include each other's brand names and derivatives in mutual negative word lists through Google Ads and in this context, the relevant negative keyword agreement may cause the undertakings to make low-cost bids in Google Ads auctions and reduce the number of bids in the tenders, the relevant product market is determined as the *"search advertising auction market"*.

I.3.2. Relevant Geographical Market

- (78) The relevant product markets examined within the scope of the file operate in the same way throughout the country, the services are offered to consumers/end users throughout the country and under similar conditions, and there is no difference according to geographical regions. Due to those facts the relevant geographical market is defined as *"Türkiye"*.

I.4. Information Obtained Within the Scope of the File

I.4.1. Decisions on Negative Keyword Matching in Google Ads

i) Modanisa-Sefamerve Decision

- (79) A request was made for determining that the Agreement between Modanisa Elektronik Mağazacılık ve Ticaret AŞ (MODANİSA) and EST Marjinal Medikal Tanıtım ve İletişim San. ve Tic. Ltd. Şti. (SEFAMERVE) did not contain any violation of Articles 4, 6 and 7 of The Act no 4054 and if this was rejected, the application be evaluated as an exemption notification. According to the said agreement, SEFAMERVE would add the expressions "Modanisa" and "nisa" belonging to Sefamerve and MODANİSA would add "Sefamerve", "sefa merve" and "sefa" belonging to Modanisa as negative word in mobile applications and/or desktop platforms, in all internet channels in Türkiye or abroad, in all accounts valid in Türkiye and abroad, in Google, YouTube, Bing, Yahoo, Safari and other search engines, in Facebook, Twitter, Instagram and all other social media channels, in broad and phrase Match types, and they would not type the words of each other to the text, use in applications such as redirection code (metatag), keyword, text ad (AdWords) etc.
- (80) The subject of the Settlement Agreement between the parties is the subject of the CMA report⁴⁸. It is stated that the keywords of the parties' registered trademarks are the least restrictive method that can be used in order to achieve the intended benefit, provided

⁴⁸ CMA. (2017) "Digital Comparison Tools Market Study Paper E: Competitive Landscape and Effectiveness of Competition"

that the "narrow-scope non-advertising agreements with a brand" only concern phrases registered as trademarks and are limited to "non-targeting", and can be considered equivalent to the protection sought to be provided by the Industrial Property Law No 6769 (IPL) according to the matching types in the sector on information section.

- (81) On the other hand, it is concluded that "negative match" and "broad non-advertising agreements with a brand" reduce consumer choice, the relevant match types will not benefit the consumer but will instead reduce consumer options, will decrease the possibility of comparison.
- (82) As a result, it was stated that the Settlement Agreement was within the scope of the Act no 4054 and for this reason, negative clearance could not be granted, and that the Agreement would benefit from individual exemption provided that the obligation for not targeting words that were not registered as trademarks and adding them to the negative word list was removed from the Agreement.

ii) Federal Trade Commission - 1-800 Contacts Decision

- (83) In the Federal Trade Commission (FTC)⁴⁹ *1-800 Contacts* decision, 1-800 Contacts, the largest online retailer of contact lenses in the United States, and several other lens retailers have agreed not to use each other's trademarks as keywords in search-advertising auctions. Google and Bing, the largest online search engine companies, sell advertisement fields on their search engine results pages through auctions. Search advertising is of great importance in the search engines most used by online service providers. Search advertising is especially important for undertakings having a low market share, and a lot of advertisements are made through this channel.
- (84) 1-800 Contacts began sending letters of caution alleging "trademark violation" due to rival companies' use of its brand name in search advertising, and stated that it would sue them if a settlement could not be reached on the decision. Competitors signed settlement agreements to avoid lengthy and costly litigation. The Settlement includes the parties agreeing not to target each other's brand names, derivatives and URLs in search advertising and to add them to negative keyword lists. 1-800 Contacts, which has a share of approximately fifty percent, together with 14 other competitors with whom it has an agreement, constitutes approximately eighty percent of the market in the contact lens market where a consensus is reached.
- (85) With the agreement between the competitors, even if users search for "cheaper competitors than 1-800 Contacts" on a search engine, they will only see 1-800 Contacts ads, therefore, consumers will not be able to reach both the cheaper product and other competitors selling the product. FTC states that advertisements targeting brands as keywords are a useful and effective tool for consumers and trademark violation will only occur if the consumer is likely to be confused as to the source of the product, on the other hand, advertisements are prohibited in general with the Settlement, regardless of their content and whether they are confusing to consumers, even when 1-800 Contacts' brand name is not used. FTC did not accept the trademark defenses on the grounds that the contracts contained non-infringing restrictions and that trademark rights could be protected by less restrictive regulations.
- (86) It is highlighted that the Settlement has restrictive effects on competition in many aspects. It is noted that the Settlement limits price competition unreasonably in terms of auctions, auction prices are distorted and this causes a loss of efficiency. It is also

⁴⁹ FTC Case No.18-3848

considered that ads that most closely match users' searches are blocked being displayed on the results page, the search engine reduces the quality of service it provides to consumers, consumers are deprived of the benefit of fierce price and service competition among contact lens sellers and consumers' search costs increase. Ultimately, FTC decided that the agreements unreasonably restrict competition in violation of FTC Act Section 5 and go beyond the trademark protection limit.

- (87) On the other hand, United States Court of Appeal found that 1-800 Contacts' protection of its brand interests has a competitive effect and undertakings' being less aggressive on protecting their trademarks is against competitive thinking. The Court also noted that FTC's concerns about the negative word targeting policy are reasonable, but it underestimates whether the Settlement has competition increasing effect to thinking that it is inherently questionable. Additionally, The Court of Appeal concluded that trademark settlements are not automatically exempted from competition examination.

iii) New Zealand Commerce Commission - Moola Decision

- (88) The New Zealand Commerce Commission's⁵⁰ decision concerns an agreement between Moola, a consumer finance company that provides short-term consumer loans, and several of its competitors in the same market not to advertise under each other's brand names in Google search advertising and to add their brand names to negative keyword lists. The agreement includes Moola removing its own brand name "moola" and the brand names of other competitors that are party to the agreement from Google Ads keywords and adding them to negative word lists.
- (89) The New Zealand Commerce Commission considers that the agreement may have the effect of controlling the prices paid for advertising services on Google Ads, from which the service is received, and preventing, restricting or limiting the purchase or potential acquisition of Google Ads advertising services, for both Moola and the other parties to the agreement. In addition, it is stated that the agreement between the parties will hinder consumers' ability to compare prices and quality; it will result in higher prices and lower quality products or services, and in reduced competition in the field of consumer finance services. The High Court of New Zealand accepted the New Zealand Commerce Commission's allegations of violation and enforced the cartel provisions in each of the agreements. The High Court of New Zealand ruled that Cartels are not limited to classic cartels where competitors come together and agree on a fee, not only agreements to provide goods and services can be cartels, but also agreements to receive services can be cartels.
- (90) Moola stated that it does not intentionally violate the Commercial Code and the relevant correspondence, both concluding and executing the agreements, is in most cases done through letters between the lawyers of the relevant credit companies and obeying their advice, it accepts the assessments put forward by the New Zealand Commerce Commission, and acknowledges that agreements to remove competing offers to purchase advertising services through Google Ads may cause paying less Google Ads. Moola was not subject to any investigation within the scope of the Article 2 of the Commercial Code. The High Court of New Zealand did not rule that the penalty imposed by the New Zealand Commerce Commission would be paid on the grounds that Moola's reasons were justified and it accepted the violation.

⁵⁰ Moola.Co.Nz Limited [2021] NZHC 3423

iv) European Commission - Guess Decision

- (91) In the relevant decision⁵¹, the Commission examined the restrictions imposed by Guess Europe on its authorized distributors in its selective distribution system, in particular with regard to online advertising on Google Ads. In the case related to the decision, Guess Europe systematically prohibits its authorized distributors using Guess brand names as keywords in their advertising on Google Ads within the European Economic Area. The Commission found that this restriction is not directly included in the distribution contracts, but is systematically applied whenever a request for permission is received from any authorized distributor.
- (92) The Commission notes that, according to established case law, EU Trademark Law allows a trademark owner to prevent third parties to advertise by using the same keyword as the trademark in cases which does not permit/makes it difficult for the average internet user to identify whether the advertisement originates from the trademark owner, an undertaking economically connected to the trade mark owner or a third party.
- (93) Commission states that this case law on trademark violation through a search engine is not suitable to prevent authorized distributors in the selective distribution system selling genuine Guess products from using the Guess brand names, because there is no possibility of any confusion about the origin of the products here. In addition, although Guess operates a selective distribution system to protect the brand image of its products, it pursues different goals in its Google Ads policy.
- (94) Consequently, it is determined in this decision that the purpose of this restriction imposed by Guess Europe is to reduce competitive pressure of authorized distributors on Guess' own online activities, prevent the decrease in sales and keep advertising costs low. It is concluded that the application restricted "availability". The Commission specifies that these restrictions provide Guess Europe with a significant competitive advantage over its authorized distributors, limits intra-brand competition and for this reason; it has the purpose of restricting competition within the scope of Article 101 of the Treaty on the Functioning of the European Union (TFEU).

v) India Competition Commission - Google AdWords Decision

- (95) The Competition Commission of India's (CCI) report on the Google search advertising⁵², examines the possibility of third-party undertakings to provide advertisements targeting brands. It is specified in the relevant report that using brand names belonging to other undertakings is not prohibited in advertising by Google, when the user searches for the brand, results belonging to rival undertakings appear and it enhances the competition. It is stated that agreements that prevent advertisers from advertising under each other's brand names reduce consumer choice and hinders the display of sites belonging to competing brands. Among the reasons why Google does not prohibit advertising for trademarks is that displaying ads from competing companies increases consumers' choices and allows for price comparison. CCI agrees with Google's opinions and considers if brand names are used as keywords, the brand owner's page will be displayed in a search made by the user and competitors' displaying advantages are increased. In the case related to the decision, the CCI concluded that Google's use of the words "Bharat Matrimony" as ad targeting by Shaadi.com, a competitor of Consim and offering matrimonial services in Bharat, India, did not lead to trademark violation.

⁵¹ Guess vs. EU Commission/Case AT.40428.

⁵² Case No.07, Case No.30 - Google vs. BharatMatrimony, Competition Commission of India

I.4.2. Use of Brand Name on the Internet and Its Relationship with Industrial Property Law

- (96) The IPL contains provisions to protect the rights granted to the trademark owner. It is stated in Article 7 of the IPL, titled "Scope of rights arising from trademark registration and exceptions" that the trademark protection provided by the IPL will be obtained through registration, subsequently, it is stated that the rights arising from trademark registration belong exclusively to the trademark owner and, in this respect, the trademark owner has the right to request the prohibition of the following actions if they are carried out without permission:
- "a) Use of any sign that is identical to the registered trademark on goods or services covered by the registration.*
 - b) Use of any sign which is identical or similar to the registered trademark and covers goods or services which are identical or similar to those covered by the registered trademark and which is therefore likely to cause confusion, including the possibility of association by the public with the registered trademark.*
 - c) The use of any sign that is the same or similar to the registered trademark, regardless of whether it is on the same, similar or different goods or services, and that would unfairly benefit from the reputation of the trademark due to the level of recognition it has reached in Türkiye, or would harm its reputation or damage its distinctive character, without a justified reason."*
- (97) It is stated in the third paragraph of the same article that if the sign is used in the commercial field⁵³ in the following cases, the use may be prohibited in accordance with the provision of the second paragraph:
- a) Placing the sign on the good or packaging.*
 - b) Marketing the goods signed, offering to deliver those, stocking for these purposes, or providing or offering to provide services under the sign.*
 - c) Importing or exporting the goods signed.*
 - ç) Use of the sign in the business documents and advertisements of the undertaking.*
 - d) Using the same or a similar sign in the form of a domain name, guiding code, keyword or similar form in the internet environment in a way that creates a commercial effect, provided that the person using the sign has no right or legitimate connection on the use of the sign."*
- (98) It is seen that the use of the trademark on the internet is also mentioned in subparagraph (d) of the relevant paragraph. As it is understood from the relevant provision, in the absence of a right or a legitimate connection, if any sign of a registered trademark is used by other people in the form of a domain name, guiding code, keyword, etc. on the internet, the trademark owner has the right to request that the act be prohibited.
- (99) It is seen in the studies conducted that it is emphasized on maintaining the balance between competition law sanctions and intellectual property protection granted by trademark law and this approach is predominant. This balancing approach essentially

⁵³ The signs which may be brand are described in the Article 4 of IPL as all kinds of signs such as words including person's names, figures, colors, letters, numbers, voices and the form of goods or packages.

argues that trademark owners should act within the scope of their trademark rights and should be subject to competition examination if their actions are outside the power granted by the relevant trademark law. Accordingly, in principle, settlement contracts for resolving disputes arising from trademark law should not be accepted as restrictive of competition as long as they are within the scope of trademark law and limited to its scope. Then, legitimate concerns about increasing scope of trademark rights in a way that they no longer serve as an indication of origin in the traditional sense should not be ignored. This is exactly why a balanced approach to keyword-based advertising restrictions/bans should be adopted. It is stated in the *Modanisa* decision of the Board that trademark protection would be obtained through registration and in order to be able to mention about trademark protection, the existence of a registered trademark is required first in its evaluation within the scope of the IPL.

- (100) It is accepted by the Court of Justice of the European Union that the uses specified in Article 10/3 of the EU Trademark Directive (Directive) (Article 7/3 of IPL) are not restrictive and that only the uses specified in this article are uses within the meaning of trademark law because the usage conditions specified in this article were regulated long before e-commerce, internet advertising and the internet in general became widespread and developed as they are today, and it is thought that they can lead to different usages than those specified in Article 10/3 of the Directive and Article 7/3 of the IPL through computer technology.⁵⁴
- (101) It is important that the balance to be established between trademark law and competition law be within the protection of the rights recognized by both laws. It is argued in the studies that brand owners should act within the scope of their trademark rights and that they should be subject to competition examination if their actions are out of the power granted by the relevant trademark law. In the other words, it should be accepted that they would not have restrictive effects on competition as long as brand owners use the brand names they have acquired within the scope of the IPL and maintain their limits. Therefore, if trademark owners exceed the protection provided by trademark law, the possibility of a violation of competition should be taken into account.
- (102) In addition to all these, legal disputes arising from trademark law are examined in many court decisions. In the decision dated 08.11.2022 and no: E. 2021/3771, K. 2022/7878 of the 11th Civil Chamber of the Supreme Court of Appeals, it was decided to reject the appeal request of the first instance court decision, which rejected the case on the grounds that the defendant's use of the plaintiff's registered trademarks did not violate or cause unfair competition in the decision examining the claim that the plaintiff's registered trademark was advertised by the defendant on the Google search engine. The plaintiffs claimed in the case that they registered the phrase "practical depot" and the defendant advertised this phrase on the Google search engine, and when users search for the phrase "practical depot" on the search engine, the defendant company's website appears first, and this situation constituted a violation of the plaintiff's trademark rights, and although written warning was sent to the defendant, this remained inconclusive and the plaintiff requested the prevention of unfair competition and the payment of compensation. In the examination carried out by the first instance court, it was decided to reject the case on the grounds that the defendant did not use the phrase "practical depot" in the Google Ads account, no advertisement was shown with this phrase, on the contrary, the account was closed to searches for "practical depot" and "practicaldepot". The plaintiff's request of appeal against the decision of the first instance

⁵⁴ Joined Cases C-236/08, Google France

court was rejected by the Regional Court of Justice, and the Supreme Court of Appeals decided to uphold the decision of the Regional Court of Justice.

- (103) The plaintiff's request of appeal on the removal of the injunction given by the court of first instance for the claim that the plaintiff's registered trademarks were used by the defendant by advertising in the form of keywords and that the defendant unfairly benefited from the plaintiff's trademark by means of this use, was examined as a result of the defendant's objection in the decision of the 16th Civil Chamber of Istanbul Regional Court of Justice dated 10.12.2018 and no E. 2018/3598, K. 2018/2654. It was noted that the defendant did not advertise the plaintiff's brand; on the contrary, the plaintiffs added their trademark to the list of negative keywords within the scope of the objection made by the defendant's attorney. The court of first instance discharged the interim injunction after the defendant's objection. The plaintiff's request of appeal on the court decision was rejected by the 16th Civil Chamber of the Istanbul Regional Court of Justice.

I.5. The Documents Obtained During On-site Inspection ⁵⁵

I.5.1. Documents Obtained in the On-Site Inspection Conducted at ARABAM.COM

Finding 1

- (104) The following statements are included in the e-mail with the subject "Competitor Analysis - February 2021", dated 10.03.2021 and sent by İlab Holding employee (.....) to ARABAM.COM employees (.....) and (.....), obtained during the on-site inspection carried out at ARABAM.COM:

"Hello,

You can find the February 2021 Competitor analysis attached.

1) Search Volumes on the Rise as of January

2) Letgo and otocash closed ads for the keyword trink sat arabam (sell on the spot my car), our and other competitors' impression share for this keyword increased.

3) Otonet reduced the cpc in the word "how much is my car"

4) (...) can be discussed. (trinksat, arabam, vavacars etc.)

5) (...) advertisements can be attached importance.

6) (...) can be used in the advertisements.

7) (...) advertisements can be opened. Interaction will increase in that way.

8) (...)

Thanks"

Finding 2

- (105) The following statements are included in the internal correspondence between ARABAM.COM employees (.....) and (.....) dated 19-20.08.2021 and on "arabam.warning.letter":

(.....) (ARABAM.COM):

"Hello,

We also discussed this subject when I visited the company.⁵⁶ We sent a warning even though the company is not currently in our business. I think it was warned a few times in

⁵⁵ The statements in the document have been taken as are, without any corrections, in order to be faithful to the original documents.

⁵⁶ It is considered that the company mentioned in the correspondence is (.....).

a row. They also stated that they do not want to return through a lawyer, for your information.”

(.....) (ARABAM.COM):

“The time period we mean "currently" is very vague; we also attach a screenshot when sending a warning.

When they manage the ads, they may not realize which keywords are used to search for the ad. Sometimes this varies depending on the expertise level of the digital marketing team or agency.

But, we do not sent warning to the company which does not have any problem in its ad searching.

If they tell us who we should contact in case of negative keywords (we also support emailing) (.....) we can contact them directly and ask them to negate the registered words on arabam.com and our other registered brands or send screenshots of the currently appearing ads.”

(.....) (ARABAM.COM):

“Okay thanks, we will probably contact them by phone and explain that there is no special situation for them, we are doing a general brand protection work and we will discuss to make the words negative in return as a matter of gentlemen’s agreement. Thus, their anger will at least calm down towards us.

1.5.2. Documents Obtained in On-Site Inspection in VAVA CARS

Finding 3

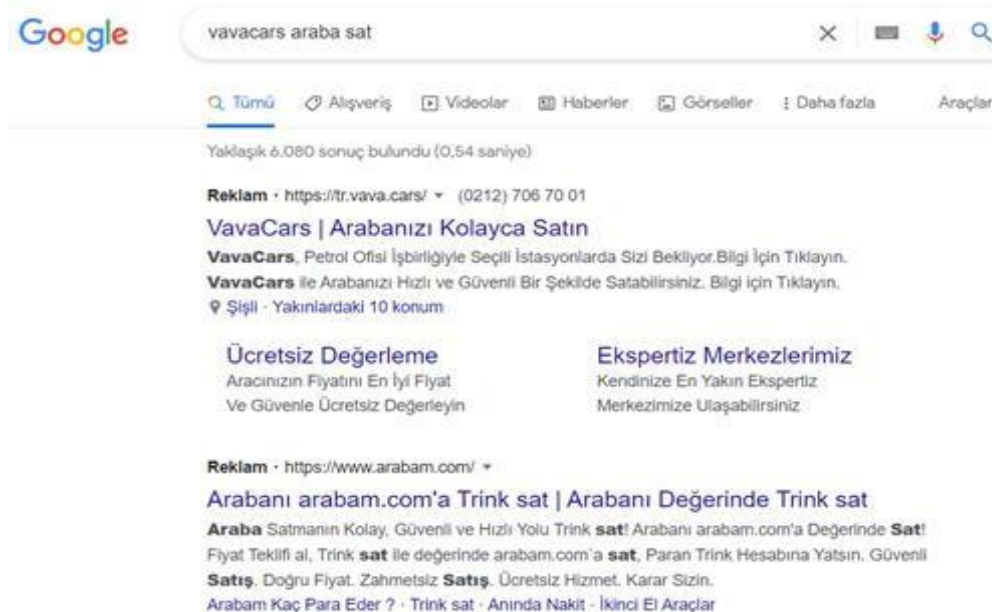
- (106) The following statements are included in the correspondence titled “Warning to Immediately Stop Advertising with the "Vava Cars" Brand on GoogleAds” between VAVA CARS employees (.....) and (.....) and ARABAM.COM employees (.....) and (.....) between 13.07.2021 and 12.11.2021:

(.....) (VAVA CARS):

“ ...

Regarding the matter we previously contacted you about, it is determined that you are conducting advertising and promotional activities using Google Ads for the "Vava Cars" brand on your company's website "www.arabam.com", in violation of the legislation.

I would like to present the screenshot below for your information:




Since your action leads to unfair competition and constitutes a violation of our trademark rights, we hereby warn and notify you that it should be stopped immediately, that the words "Vavacars", "Vava cars", +Vavacars, +Vava cars should be made negative in your Google Ads advertising account, otherwise, if you continue with the advertising and promotional activities, we will take all kinds of administrative, legal and criminal action against you, and that you will be held liable for any matter arising from this, provided that we reserve all our rights to case and demand any excess.

(.....) (ARABAM.COM):

"Previously, Mr. (.....)⁵⁷ contacted me and we added the word brand to the negative. Due to the phrase "sell car" it looks like there are ads in the search. (.....) will examine and call you back.

(.....) (ARABAM.COM):

"Hello (.....)⁵⁸,
When we examine our accounts upon your e-mail, you will find our findings below:
We do not have any campaign targeting Vava Cars:

Keyword status: All enabled					
Keyword text contains vavacars		Status: Eligible		Add filter	
● Keyword ↓	Ad group	Status	Max. CPC	Policy details	Final URL
 <p>No keywords match your filters</p> <p>Clear filters</p>					

The advertisement you send may be quoted by the generic phrase "Sell Car".

● Keyword ↑	Match type
● +araba +sat	Broad match
● +araba +satis	Broad match

Vavacars is included as a negative keyword in our campaigns.

⁵⁷ VAVA CARS employee.

⁵⁸ VAVA CARS employee.

[illegible]

We also added the phrase “vavacars sell car” as exactly negative to our accounts.”

(.....) (ARABAM.COM):

“Hello (...),

Could you please add the word "trink sat" to the negative word list as "trinksat" and "trink sat" instead of [trinksat]?

(....) (VAVA CARS):

“Hello (....) ,

Since you type here “vavacars”, our ad appears on the screen. The phrases “trinksat” and “trink sat” are made negative, when we type these phrases to the search area, our ad does not appear on the screen.”

(.....) (ARABAM.COM):

"Hello (.....),

It would be more correct to negate the words *trink sat* and *trinksat* sequentially. Because, in this case, there is a share to be taken.

Similarly, on our side, the words *vavacars* and *vava cars* are sequentially negatively instead of full negation.

(.....) (VAVA CARS):

"(.....) hello,

Thank you for answering. As we stated in the previous e-mail, since it is typed as "vava cars" here, our ad appears on the screen. When you type the Word "trink sat" with the other words, ("trink sat araba al" [sell on the spot and buy a car], trinksat araba almak" [sell on the spot buying a car] etc.) Vava Cars ad does not appear on the screen ". So unfortunately, we do not answer your e-mail positively.

(.....) (ARABAM.COM):

"Thanks (.....),

In that case we have a right to appear –vava cars trink sat - search, as I noted we added the brand word vava cars as phrase and exact match negative.

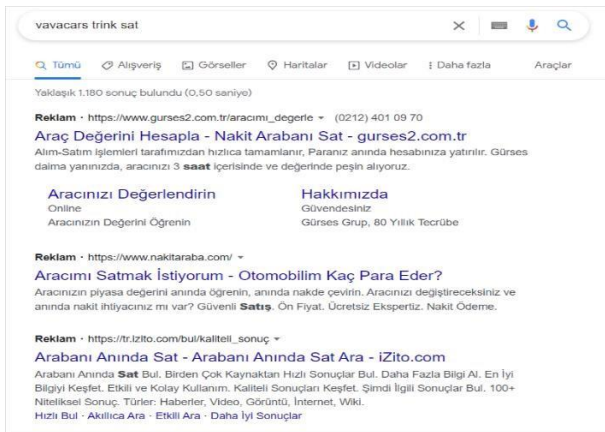
Please could I get a screenshot of the negative words specific to the word –trink sat- for mutual control and fair approach?

(.....) (VAVA CARS):

"Hello (.....),

I think the users who type "Vavacars trink sat" intend to access to "VavaCars". Since trink sat is a generic expression, the intention is to access to VavaCars if vavacars is specifically typed in the search term. Additionally, when you type "vavacars trink sat", VavaCars appears first in the organic results on Google, so we can say that it is seen in this way in Google too.

Then, to maintain our mutual understanding with you, we have negated searches for "vavacars trink sat". But, finally, users will be able to access neither Vavacars nor trink sat because competitor ads are placed on the top of these searches. You can see in the following screenshot I shared.



(.....) (ARABAM.COM):

"Hello, (.....),

I recommend that both parties be available for these searches to prevent this. What do you think about this? Since we are both on equal terms on the Ads side, if you negate the words "trink sat" "trinksat" as a phrase, we will do the same for vavacars,

(you are currently negative in ours as phrase match) but, If you want to continue negating as exact match, we will also negate vavacars as an exact match.

We are waiting your answer.

Thanks.

(.....) (VAVA CARS):

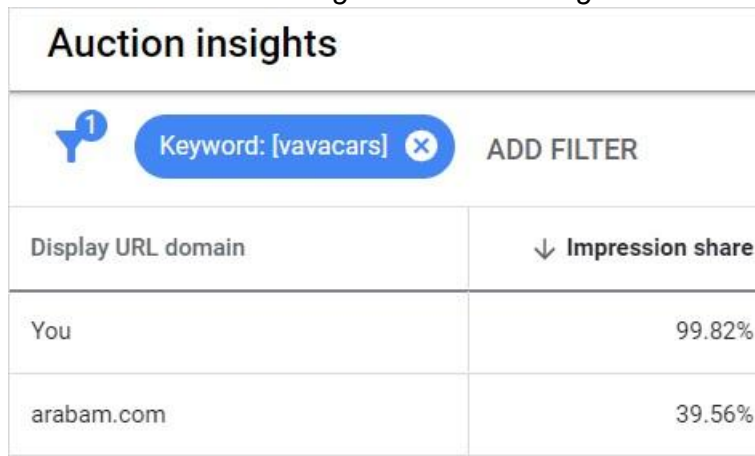


"You are also negated as phrase Match."

<input type="checkbox"/> Negative keywords ↑	Match type
<input type="checkbox"/> "trinksat"	Phrase match
<input type="checkbox"/> "trink sat"	Phrase match

(.....) (VAVA CARS):

"Hello (.....),

When I look at the Auction insights, I see you bid to VavaCars. You can see the screenshot in the following. Please make negative for all cities.

Auction insights	
	
<div>  Keyword: [vavacars]  ADD FILTER </div>	
Display URL domain	↓ Impression share
You	99.82%
arabam.com	39.56%

(.....) (ARABAM.COM):

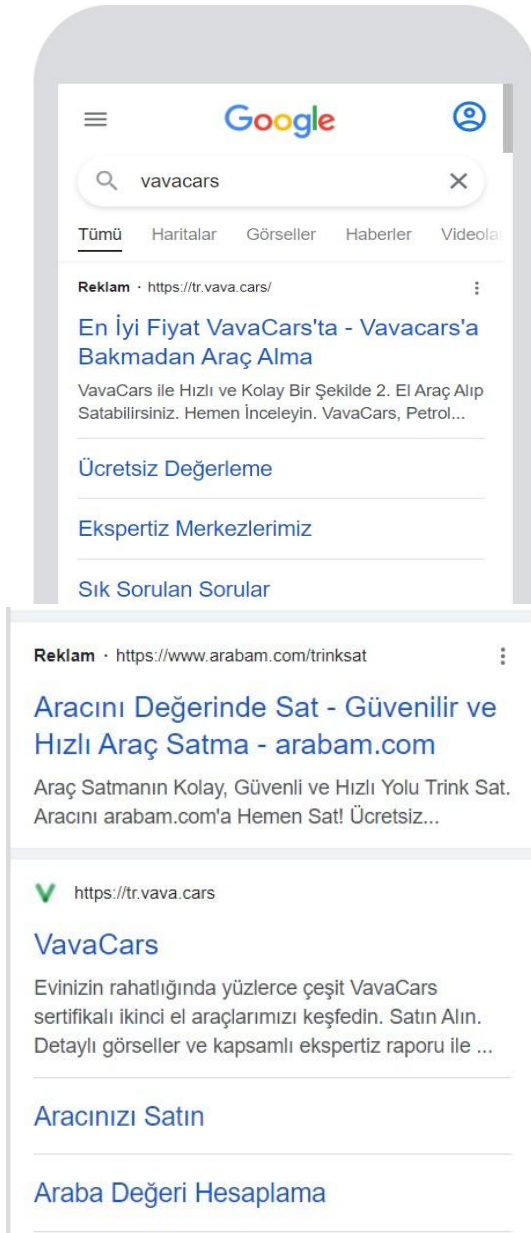
"Hello (.....),

We did not do any transaction related to your trademark word Vavacars and also it is added as negative, could you please open the screenshot of the ad?

Let us examine it too."

(.....) (VAVA CARS):

"Since these are Anatolian cities, I don't have the chance to take screenshots. However, for example, I saw it for Denizli in Ad Preview when I was testing. I'm posting a screenshot of it below. Even if you don't target, I understand that Vavacars is not negative in all cities on your side."



(.....) (ARABAM.COM):

"Hello(.....),

As a result of our examination, we added to negative.

It may have been triggered by English advertisements that included the word "cars."

Negative Keywords	
	ADD FILTER
<input type="checkbox"/>	Negative keyword ↑
<input type="checkbox"/>	[vavacars]

(.....) (VAVA CARS):

*"Hello (.....),
We saw that arabam.com ads appeared for searches for "Vavacars car" and "Vavacars offer. I'm attaching the screenshots. We agreed before that it would not appear. Don't you have negative results in all cities? Can you check and let us inform?
Thanks."*

(.....) (ARABAM.COM):

*"Hello (.....),
We controlled again, the word [vavacars] is available in our campaigns as exact negative. We do not do city-based targeting or campaigns here as either. The ad may have been triggered by the word offer. Thanks."*

(.....) (VAVA CARS):

*"(.....),
You stated that you negated as a phrase in our previous correspondence. You can see the screenshot below. It is also negated on our page in the same way. Did you make any change in this practice?"*

Bu durumda -vava cars trink sat- aramasında bizim de çıkma hakkımız doğmuş oluyor, belirttiğim gibi vava cars marka kelimesini biz sıralı ve tam eşleme negative olarak ekledik.

(.....) (ARABAM.COM):

*"Hello (.....),
It continues in the same way, I'm attaching negative words about vavacars, No changes have been made here since our last correspondence.
But, let's check what you send again, we'll keep in touch. Vavacars Offer and Vavacars Car can be added as negative. Additionally, since we have the registration for the word "arabam"[my car], your ad should not appear in searches like "arabam kaç para?[How much does my car cost?]"*

(.....) (VAVA CARS):

*"Hello (.....),
I understood that if you included other words along with Vavacars, you would not appear as advertisement, and we made the arrangement according to this. But I understand that only certain words are negated. I request an arrangement to ensure equal conditions for this situation.
Since searches such as "arabam kaç para, arabam ne eder [how much does my car cost, what is my car worth]" that include the word "arabam" are generic expressions, unfortunately, we do not agree on not appearing as ads in these searches. Legal experts can explain the details better if necessary."*

I.6. Information and Documents Obtained from ARABAM.COM

(107) The following is stated briefly in the response letter from ARABAM.COM;

- Google policies and practices play a determining role in companies' traffic. However, advertisements that appear as a result of searches using words that are not targeted by the undertaking but are related to it can be displayed in advertisements placed on the Google search engine and for this reason, not targeting only the competitor's brand name is not enough, the brand name should be negated in order to achieve an effective result,
- Advertisers cannot target keywords in Google's "Performance Max" application, which is a new ad management type activated as of 02.11.2021, the targeted words are not presented as a report and there is no possibility of word negation. A request can be made to a Google representative on this subject. Although it offers limited

intervention opportunities, almost every brand uses this advertising method due to the efficient results obtained.

- (108) The table shows the total traffic coming to the ARABAM.COM website through Google ads in 2020, 2021 and 2022, total share of Google ads in traffic, and total share of other brand searches in traffic:

Table-11: Traffic, Traffic Rates and Types in 2020, 2021 and 2022

arabam.com Advertisement and Total Traffic (Session)	2020	2021	2022
Total arabam.com Traffic	(.....)	(.....)	(.....)
Total Traffic From Google Advertisements	(.....)	(.....)	(.....)
Total Share of Google Advertisements In the Traffic (%)	(.....)	(.....)	(.....)
Total Traffic From the Other Brand Searches	(.....)	(.....)	(.....)
Share of Other Brand Searches In Ads (%)	(.....)	(.....)	(.....)
Share of Other Brand Searches In the Total Traffic (%)	(.....)	(.....)	(.....)
Vavacars Brand Traffic	(.....)	(.....)	(.....)
Letgo Brand Traffic	(.....)	(.....)	(.....)
Kavak (Garaj Sepeti) Brand Traffic	(.....)	(.....)	(.....)
Source: Response Letter			

- (109) The following table shows the traffic details obtained on an annual basis, broken down by channel, for the years 2020, 2021 and 2022, as sent by ARABAM.COM:

Table-12: Traffic Rates and Types Obtained according to Channel breakdown in 2020, 2021 and 2022

arabam.com and Trink Sat! Total Traffic Distribution (Sessions)	2020	2021	2022
All Traffic (Listing & Trink Sat!)	(.....)	(.....)	(.....)
Direct & Other (in all traffic)	(.....)	(.....)	(.....)
Paid Traffic (in all traffic)	(.....)	(.....)	(.....)
Organic Traffic (in all traffic)	(.....)	(.....)	(.....)
Paid Traffic (in all traffic) (%)	(.....)	(.....)	(.....)
Organic Traffic (in all traffic) (%)	(.....)	(.....)	(.....)
Trink Sat! traffic in total traffic	(.....)	(.....)	(.....)
Share of Trink Sat! in the Traffic of arabam (%)	(.....)	(.....)	(.....)
Google Trink Sat! Search Advertising Traffic	(.....)	(.....)	(.....)
Total Share of Google Search Traffic in Trink Sat! (%)	(.....)	(.....)	(.....)
Share of Google Trink Sat! Advertisement Traffic in Total Traffic(%)	(.....)	(.....)	(.....)
Source: Response Letter			

- (110) ARABAM.COM stated that Google ads have a very limited impact on Trink sat! traffic, its share in the total ARABAM.COM listing traffic is negligible, the share of Trink sat! outside of the listing traffic is only at (.....)%, the share of Google search ads in this traffic is below (.....)%.

Figure-2: Arabam.com Total Traffic and Source Distribution of Trink sat! Traffic, Average of 2020-2022

(.....TRADE SECRET))

- (111) It is also stated by the undertaking that Google Ads campaigns are managed in a dynamic way and there are negation actions for competitor brand words, therefore, there is no period in which the negation process is not performed.
- (112) ARABAM.COM stated that a campaign was made targeting expressions containing the words of rival brands (vavacars, otonet and kavak) on 07.09.2022, this campaign, which was only allocated (.....) TL, lasted (.....) days. The table sent by ARABAM.COM and containing traffic details for the 15-day periods before and after 07.09.2022 is given below:

Table-13: Google Ads Traffic and Traffic Rates through the brand names “vavacars, otonet and kavak”

Traffic	23.08.22-06.09.22	08.09.22-22.09.22
Total Traffic to Our Site	(.....)	(.....)
Google Ads Total Traffic	(.....)	(.....)
Google Ads Traffic from Vavacars Brand Searches	(.....)	(.....)
Google Ads Traffic from Otonet Brand Searches	(.....)	(.....)
Google Ads Traffic from Letgo Brand Searches	(.....)	(.....)
Google Ads Traffic from Kavak (Garaj Sepeti) Brand Searches	(.....)	(.....)
Share of Total Traffic from 3 Brand searches (Google Ads)	(.....)%	(.....)%
Source: Response Letter		

- (113) The table sent by ARABAM.COM on the percentage of users who clicked on ARABAM.COM’s ad advertisements and closed the website without any actions for the years 2020, 2021 and 2022 is given below:

Table-14: Bounce Rate of Users from Specific Brand Names in 2020, 2021 and 2022 (%)

Brand-Bounce Rate	2020	2021	2022
Arabam.com-Trink Sat!	(.....)	(.....)	(.....)
Vavacars	(.....)	(.....)	(.....)
Letgo	(.....)	(.....)	(.....)
Source: Response Letter			

Table-15: Site Traffic Coming with some Specific Brand Names in 2020, 2021 and 2022

Brand-Traffic	2020	2021	2022
Arabam.com-Trink Sat!	(.....)	(.....)	(.....)
Vavacars	(.....)	(.....)	(.....)
Letgo	(.....)	(.....)	(.....)
Source: Response Letter			

- (114) The undertaking stated that,

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individuals who made the wrong appointment expressed this situation verbally at the reception points and no data could be presented because they were very few.

I.7. Assessment

I.7.1. Assessment on Information and Documents Obtained from ARABAM.COM⁵⁹

I.7.1.1. Assessment on the Number of ARABAM.COM's Ad Impressions

- (115) The graphics showing how many times ARABAM.COM's ads are displayed in queries made by users on the Google search engine that include competing brand names and the evaluations within this framework are indicated below.

✓ The Number of ARABAM.COM's ad impressions in Google Queries Containing ARABA SEPETİ brand names

- (116) In order to evaluate the search advertising relationship between the parties to the investigation, ARABAM.COM and ARABA SEPETİ, the number of ARABAM.COM's ad impressions in Google queries containing the phrases "araba.com" and "kavak", which are among ARABA SEPETİ's brand names, was examined.

Graphic-1: The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (117) It is understood from the data sent by ARABAM.COM that ARABAM.COM's ad was displayed the most in the "araba.com" exact match type in 2020. In other words, when users search for only "araba.com" on Google, ARABAM.COM's ad was shown more on the results page, in addition, ARABAM.COM also gained broad and phrase match types at the beginning of 2020.
- (118) The data on ad impressions for related words in 2021 indicates that ARABAM.COM was displayed throughout the year with the exact match type "araba.com" similar to 2020. However, the total number of ad impressions for the relevant word was (.....) in 2020, while it was (.....) in 2021. In this context, the graphic showing the number of ad impressions of ARABAM.COM monthly in Google queries containing the words "araba.com" and "kavak" in 2021 is given below.

Graphic-2: The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2021

(.....TRADE SECRET.....)

- (119) When the graphic above is examined, it is seen that the word "araba.com", which is among the brand names of ARABAM.COM's ARABA SEPETİ, gained ad impressions throughout the year in all match types. In addition, the number of ARABAM.COM's ad impressions in the broad match type "araba.com" increased in the last two months of 2021. The graphic below shows the number of ARABAM.COM's ad impressions in Google searches containing the words "araba.com" and "kavak" on a monthly basis in 2022:

⁵⁹ The graphics and tables in the relevant section are prepared by the rapporteurs with the data sent by ARABAM.COM.

Graphic-3: The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2021

(.....TRADE SECRET)

- (120) When the graphic showing the number of ARABAM.COM's ad impressions in Google queries containing the phrases "araba.com" and "kavak" in 2022 is examined, it is understood that the number of ARABAM.COM's ad impression is high for "kavak" in the broad match type in January and February. In other words, ARABAM.COM's ad is displayed when users search for "kavak + a generic expression" on Google, in addition ARABAM.COM's ad is displayed on the results page with all match types for the phrase "araba.com". On the other hand, it is understood that ARABAM.COM's ad did not appear on the results page for Google queries containing the words "araba.com" and "kavak" in the last three months of 2022. It is considered that this situation is due to ARABAM.COM adding the words "araba.com" and "kavak" to its negative keyword list in exact match, phrase match and broad match types in October, November and December. However, no information and/or document were found at the on-site inspections carried out during the preliminary inquiry and investigation processes on a negative keyword agreement between ARABAM.COM and ARABA SEPETİ. Given this fact, it is concluded that the undertaking might have negated the words with its independent commercial decision; therefore, it is there is no conduct between ARABAM.COM and ARABA SEPETİ that constitutes a violation of competition pursuant to the Article 4 of the Act no 4054.

✓ **The Number of ARABAM.COM's Ad Impressions in Google Queries Containing LETGO OTOPLUS Brand Names**

- (121) In order to evaluate the search advertising relationship between the parties to the investigation, ARABAM.COM and LETGO OTOPLUS, the number of ARABAM.COM ads displayed in Google queries containing the word "letgo" was examined.

Graphic-4: The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "letgo" on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (122) It is understood from the graphic above showing the number of ARABAM.COM's ad impressions in Google Searches Containing the Words "letgo" in 2020 that ARABAM.COM's ad was displayed throughout the year in the exact and phrase match types of the word "letgo". It was displayed more in the first months of the year in "letgo" broad match. When the display data sent by ARABAM.COM examined, it is seen that the number of ARABAM.COM's ad impressions in the "letgo" broad match type was (.....) in December.

Graphic-5: The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "letgo" on a Monthly Basis in 2021

(.....TRADE SECRET)

- (123) When the graphic showing the number of ARABAM.COM's ad impressions in Google queries containing the phrase "letgo" in 2021 is examined, it is observed that ARABAM.COM's ad is displayed throughout the year in the exact and phrase match types of the word "letgo". ARABAM.COM's ad is displayed more irregularly in the broad match type than the exact and phrase match types of "letgo". It is seen that the graphics containing the number of ARABAM.COM's ad impressions in Google queries containing the word "letgo" in 2020 and 2021 have similar characteristics. In this context, Google ad interactions between ARABAM.COM and LETGO OTOPLUS indicate that ARABAM.COM's ads appeared on the results page for searches containing LETGO OTOPLUS's brand names throughout 2020 and 2021.

Graphic-6: The number of ARABAM.COM's ad impressions in Google Searches Containing the Word "letgo" on a Monthly Basis in 2022

(.....TRADE SECRET.....)

- (124) Finally, when the graphic showing the number of ARABAM.COM's ad impressions in Google searches containing the word "letgo" in 2022 is examined, it is understood that ARABAM.COM's ad appeared in all match types for the word "letgo" at the beginning of the year, then, it was displayed more in the broad match type than other match types for "letgo". This is an indication that when users search for a generic phrase along with the word "letgo" on Google, ARABAM.COM's ad appears on the results page. It is observed that the number of ARABAM.COM's ad impressions decreased in all match types for the word "letgo" for the remaining part of 2022. In this context, the data sent by ARABAM.COM shows that the number of ARABAM.COM's ad impressions in the "letgo" broad match type was (.....) in January, and (.....) in August, (.....) in September, (.....) in October and November.
- (125) Briefly, the evaluation of the ad impression data sent by ARABAM.COM shows that ARABAM.COM's ad was displayed on Google's results page in varying numbers for three years in all match types for the word "letgo". In other words, when users search for "letgo" and "letgo + generic expression" on Google, ARABAM.COM's ad appears on the results page. The number of ARABAM.COM's ad impressions decreased significantly in all match types for the word "letgo" in the last six months of 2022. In this context, when the above-mentioned graphics on ad impressions of ARABAM.COM are examined, it is concluded that there is no conduct between ARABAM.COM and LETGO OTOPLUS that constitutes a violation of competition pursuant to the Article 4 of the Act no 4054, when the facts that there is no evidence that LETGO OTOPLUS brand names are negated by ARABAM.COM, no information and/or documents are found indicating a negative keyword agreement between ARABAM.COM and LETGO OTOPLUS during the on-site inspections conducted in the preliminary inquiry and investigation processes.

✓ **The Number of ARABAM.COM's Ad Impressions in Google Queries Including VAVA CARS brand names**

- (126) In order to evaluate the search advertising relationship between the parties to the investigation, ARABAM.COM and VAVA CARS, the number of ARABAM.COM's ad impressions displayed in Google searches containing the phrase "vavacars", one of VAVA CARS's brand names, is examined. In this context, the graphics on the number

of ad impressions for searches containing the relevant brand name of ARABAM.COM are indicated below.

Graphic-7: The number of ARABAM.COM's ad impressions in Searches Containing the Word "vavacars" on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (127) It is seen that ARABAM.COM's ad was frequently displayed in the exact match type of the word "vavacars" in January and February in the graphic created using ad impression data sent by ARABAM.COM. In other words, the number of ARABAM.COM's ad impressions was higher in queries made on Google that only included the word "vavacars". In this context, the number of ARABAM.COM's ad impressions for the word "vavacars" was at the level of (.....) in the exact match type and at the level of (.....) in the phrase match type. Therefore, since ad impression data in phrase and broad match types had lower values than the exact match type, it is considered useful to conduct the analysis in a separate graphic. It is indicated in the following graphic how many times ARABAM.COM's ads were displayed in Google searches made by users that included the word "vavacars" along with another word(s).

Graphic-8: The number of ARABAM.COM's ad impressions in Searches Containing the Word "vavacars" on a Monthly Basis in 2020 (phrase and broad match)

(.....TRADE SECRET.....)

- (128) When the data sent by ARABAM.COM is examined, it is understood that the number of advertisements of ARABAM.COM in the phrase match type of the word "vavacars" was higher in September, October and November compared to the rest of the year, in this context, ARABAM.COM's ad for the word "vavacars" was displayed in the phrase match type (.....) times in November and (.....) times in total in 2020. The number of ARABAM.COM's ad impressions in Google queries containing the word "vavacars" on a monthly basis in 2021 is indicated in the following graphic.

Graphic-9: The number of ARABAM.COM's ad impressions in Searches Containing the Word "vavacars" on a Monthly Basis in 2021

(.....TRADE SECRET.....)

- (129) When ARABAM.COM's ad impression data for 2021 is examined, it is seen that the number of ARABAM.COM's ads for the broad match type of the word "vavacars" were higher in October, November, and December compared to the rest of the year. The data sent by ARABAM.COM shows that the number of ARABAM.COM's ads in Google queries containing the word "vavacars" (broad match type) was (.....) in October, (.....)

in November and (.....) in December. Similar to 2020, the number of ARABAM.COM's ads increased in the last months of the year in 2021, in addition, ARABAM.COM's ads were displayed a total of (.....) times in 2021 and (.....) times in 2020 for the phrase and broad match type ("vavacars + generic phrase") for the word "vavacars". Therefore, it is observed that the number of ARABAM.COM's ad impressions in the phrase and broad match type for the word "vavacars" increased significantly in 2021 compared to the previous year, on the other hand, the number of ads displayed for the exact match type of the word "vavacars" decreased from (.....) in 2020 to (.....) in 2021.

- (130) In order to evaluate the search advertising relationship between ARABAM.COM and VAVA CARS, the number of ARABAM.COM ads displayed in Google queries containing the expression "vavacars" in 2022 is examined.

Graphic-10: The number of ARABAM.COM's ad impressions in Searches Containing the Word "vavacars" on a Monthly Basis in 2022

(.....TRADE SECRET.....)

- (131) It is seen in the graphic above that the word "vavacars" appeared on the results page of ARABAM.COM's ads in the broad match type in January and February of 2022 and the word "vavacars" appeared on the results page in the exact match type in September. Indeed, ARABAM.COM's ads were rarely displayed or not displayed at all in Google queries containing the word "vavacars" for the rest of 2022. In other words, it is understood that ARABAM.COM's ads were displayed on the results page when users searched using the word "vavacars" for example, "vavacars offer" or "used car vavacars" on Google in January and February, and in searches related to the word "vavacars" on Google in September. However the number of ARABAM.COM's ad impressions was very low in Google searches containing the relevant word during the rest of the year.
- (132) Briefly, the table, which indicates the annual change in the number of ARABAM.COM's ad impressions in the exact, phrase and broad match types of the word "vavacars" in 2020, 2021 and 2022, is given below.

Table-16: The Total Numbers of ARABAM.COM's Annual ad impressions in Google Searches Containing the Word "vavacars"

Match Type	2020	2021	2022
"vavacars" Exact	(.....)	(.....)	(.....)
"vavacars" Phrase	(.....)	(.....)	(.....)
"vavacars" Broad	(.....)	(.....)	(.....)
Total	(.....)	(.....)	(.....)
Source: Response Letter of ARABAM.COM			

- (133) The change in ARABAM.COM's ads for the word "vavacars" according to the match type and year is indicated in the table above. In this context, it is understood that when a search is made for "vavacars" on Google (exact match), ARABAM.COM's ad was displayed on the results page (.....) times in 2021, the number of ads displayed in the exact match type was low in 2021 compared to other years. It is observed that the number of ARABAM.COM's ad impressions was (.....) in 2021 in searches containing

the word "vavacars" along with other word(s) on Google (phrase and broad match) and higher than the other years.

- (134) The data about ARABAM.COM's ad impressions for the word "vavacars" in terms of exact, phrase and broad match types for the last three years in general is given above. Moreover, it is considered that it would be appropriate to examine the negative keyword practice, which is the subject of the investigation, within the scope of the documents obtained during on-site inspections. In this context, the correspondence between ARABAM.COM and VAVA CARS, which is included in Finding 3, should be evaluated within the scope of the data on ad impressions, clicks, cost per click and bounce rate sent by ARABAM.COM.
- (135) The graphic prepared to evaluate the change in the number of ARABAM.COM's ad impressions in Google queries containing the word "vavacars" on the date of the correspondence in 2021 between ARABAM.COM and VAVA CARS included in Finding 3 in is indicated below.

Graphic-11: The number of ARABAM.COM's ad impressions in Google Searches Containing the Word "vavacars" (Exact, Phrase and Broad Match) Between June 24, 2021 and July 24, 2021

(.....TRADE SECRET.....)

- (136) In the documents obtained during the on-site inspection carried out at VAVA CARS, it is seen that the correspondence between VAVA CARS and ARABAM.COM started on 13.07.2021. The graphic above, which includes the number of advertisements of ARABAM.COM for the word "vavacars", indicates that number of ARABAM.COM's ads decreased significantly in all match types of the word "vavacars" since the date of the correspondence between ARABAM.COM and VAVA CARS.
- (137) When the correspondence between VAVA CARS and ARABAM.COM employees between 13.07.2021 and 12.11.2021, which is included in Finding 3 is examined, it is seen that VAVA CARS to ARABAM.COM mutually negated their brand names in phrase match type depending on the following expressions in the said correspondence sent from ARABAM.COM to VAVA CARS: *"It would be more appropriate to negate the words "trink sat" and "trinksat" in phrase match. Because in this case, there is a share taking. Similarly, the words vavacars and vava cars are added to phrase match instead of exact match"* and in the correspondence sent from VAVA CARS to ARABAM.COM *"When you type the word "trink sat" together with other words ("trink sat araba al", "trinksat araba almak", etc) Vava Cars advertisement does not appear."*
- (138) In addition, depending on the message sent from VAVA CARS to ARABAM.COM, *"Then, to maintain our mutual understanding with you, we have negated searches for "vavacars trink sat". But, finally, users will be able to access neither Vavacars nor trink sat because competitor ads are placed on the top of these searches. You can see in the following screenshot I shared"* and the message sent from ARABAM.COM to VAVA CARS *"I recommend that both parties be available for these searches to prevent this. What do you think about this? Since we are both on equal terms on the Ads side, if you negate the words "trink sat" "trinksat" as a phrase, we will do the same for vavacars, (you are currently negative in ours as phrase match) but, If you want to continue negating as exact match, we will also negate vavacars as an exact match."*, it is considered that VAVA CARS and ARABAM.COM agreed to carry out their advertising

strategies on Google. In this case, it can be considered as ad field sharing because it causes users to see only certain ads when they search for certain words on Google. For example, when users search Google for the word "arabam.com" they will not see an ad for VAVA CARS and when users search Google for the word "vavacars" they will not see an ad for ARABAM.COM. In the situation mentioned above, when the user searches for the phrase "vavacars trink sat" on Google, neither party's ad is displayed because they negate each other's brand names in the phrase match type. In this context, it is concluded that VAVA CARS and ARABAM.COM determined their advertising strategies on Google together and restricted the preferences of users searching on Google.

- (139) With respect to whether the negation agreement between ARABAM.COM and VAVA CARS is made for the purpose of protecting the trademark rights, as it can be seen in the graphic above, ARABAM.COM's ads are displayed more in the broad and phrase match types of the word "vavacars", and hardly displayed in the exact match type displayed for the word "vavacars". In other words, when the word "vavacars" is searched on Google, ARABAM.COM's ads do not appear, when generic terms such as "car", "sale" etc. are written next to the word "vavacars", ARABAM.COM's ad is displayed. As mentioned in previous sections, this is because the Google algorithm triggers advertisements of undertakings operating in similar sectors. In this context, it is considered that the correspondence between VAVA CARS and ARABAM.COM is not made for the purpose of protecting trademark rights, it is made to ensure that only the advertisement of the relevant undertaking is displayed in a search containing the brand names of VAVA CARS or ARABAM.COM and to direct traffic to the undertaking by obstructing the working principle of the Google algorithm. It is indicated in the graphic above that the negative keyword agreement between VAVA CARS and ARABAM.COM reduces the number of ad impression in broad and phrase match types.
- (140) The graphic below shows the change in advertising traffic (clicks) of ARABAM.COM for searches containing the word "vavacars", beside the correspondence between ARABAM.COM and VAVA CARS.

Graphic-12: The Number of Ad Clicks for ARABAM.COM in Google Searches Containing the Word "vavacars" (Exact, Phrase and Broad Match) in 24.06.2021 - 24.07.2021 Period

(.....TRADE SECRET.....)

- (141) When the graphic above, which shows how many clicks were made on the advertisement of ARABAM.COM, prepared as a result of queries containing the word "vavacars" on Google, is examined, it is observed that there is a decrease in the number of ad clicks of ARABAM.COM in the broad and phrase match types of the word "vavacars" after 13.07.2021, which is the beginning of the correspondence between ARABAM.COM and VAVA CARS in Finding 3 and the number of clicks decreased in to (.....) in the next days. Additionally, it is seen that ARABAM.COM has a very low number of clicks for the Word "vavacars" in the exact match type before and after the relevant correspondence. In this context, it is understood that advertisement of ARABAM.COM was displayed (.....) times and had (.....) clicks on Google's "vavacars" search in the relevant date range. On the other hand, when the ad impressions and clicks in the graphic above are examined in phrase and broad match types, it is understood that ARABAM.COM's ad is displayed and clicked much more when users search for "vavacars + generic phrase" on Google. After the correspondence between ARABAM.COM and VAVA CARS dated 13.07.2021, it is observed that the number of

advertisements and therefore the number of clicks on ARABAM.COM in relevant searches decreased.

- (142) In this context, data on the bounce rate was requested from ARABAM.COM in order to examine whether users clicked on advertisement of ARABAM.COM unintentionally/due to confusion as a result of the "vavacars + generic expression" queries. According to this, it is seen that there were (.....) users who clicked on the advertisement of ARABAM.COM as a result of the "vavacars + generic expression" queries between 24.06.2021 and 24.07.2021 and only (.....) of them immediately left the ARABAM.COM website. Therefore, it is considered that users clicked on the advertisement of ARABAM.COM consciously in the "vavacars + generic expression" queries. As a result, it is concluded that Google ads increase brand awareness for undertakings, undertakings receive traffic from "competitor brand + generic word" queries and increase product diversity for users.
- (143) The graphic containing ARABAM.COM's costs per click for the word "vavacars" in the relevant date range is given below within the scope of the examination whether a cost advantage was gained for the negative keyword agreement.

Graphic-13: ARABAM.COM's Costs Per Click on Google Searches (Exact, Phrase and Broad Match) Containing the Word "vavacars" in the Period 24.06.2021 – 24.07.2021

(.....TRADE SECRET.....)

- (144) It is observed that after the parties mutually added their brand names to the negative keyword list in phrase and broad match types with the correspondence dated 13.07.2021 between ARABAM.COM and VAVA CARS, the number of clicks of ARABAM.COM in searches containing the word "vavacars" decreased,⁶⁰ and therefore the costs per click for the relevant word also decreased. When the quantity of the decrease is examined, the cost per click data sent by ARABAM.COM is given in the following table.

Table-17: ARABAM.COM's Costs per Click on "vavacars" Match Types

Key Word	Match Type	12.07.2021	13.07.2021	14.07.2021	15.07.2021	16.07.2021
Vavacars	Exact	(.....)	(.....)	(.....)	(.....)	(.....)
Vavacars	Phrase	(.....)	(.....)	(.....)	(.....)	(.....)
Vavacars	Broad	(.....)	(.....)	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter						

- (145) When ARABAM.COM's costs per click for the word "vavacars" is examined in the exact, phrase and broad match types, it is seen that after the date of correspondence, the cost per click in the phrase match type decreases from (.....) to (.....) and to zero in the next days and it decreases from (.....) to zero in the broad match type. When the figures given in the table are taken into account, it is seen that the costs per click are quite low.
- (146) It is considered that the correspondence between ARABAM.COM and VAVA CARS (Finding 3) constitutes a negative keyword agreement between competitors in the search advertising market, after the relevant correspondence, the number of ad

⁶⁰ It is given in the graphic titled "The Number of Ad Clicks for ARABAM.COM in Google Searches Containing the Word "vavacars" (Exact, Phrase and Broad Match) in 24.06.2021 - 24.07.2021 Period".

impressions and clicks for ARABAM.COM's broad and phrase match type for "vavacars" decreases and the cost per click also decreases due to the decline in the number of clicks. The bounce rates of ARABAM.COM for the keyword "vavacars" show that (.....) users clicked on ARABAM.COM's ads for queries containing the word "vavacars" in the period 24.06.2021 - 24.07.2021, only (.....) of these immediately exited the website of ARABAM.COM, therefore, users consciously clicked on the advertisement of competitors when they searched for the word "vavacars" on Google. Therefore, it is concluded that the display of advertisements of competitors in Google searches containing brand names increases product diversity and competition and the negative keyword agreement between ARABAM.COM and VAVA CARS is aimed at reducing product diversity in the search advertising market and in this respect, disrupts the competitive structure.

- (147) As it is mentioned in previous sections, search advertising is the display of ads related to queries made by users using specific words in search engines like Google on the search results page. Ads are generally listed at the top of the results page in user queries in Google search engine, then, organic results are located following the advertisements. Advertisers select "keywords" that they deem relevant to their activities through Google Ads and trigger their ads to appear on searches made by users.⁶¹ It is stated in the Commission's report titled *"The use of online marketplaces and search engines by SMEs"*, two-thirds of undertakings making sales accept that their position on the search results page has a significant impact on sales, and approximately six out of ten undertakings use search engine optimization techniques to appear higher in search results.⁶² Therefore, it is understood that being at the top of the Google search engine is important for undertakings and undertakings are in competition in this context.
- (148) Therefore, it is considered that displaying advertisements of competitors in Google searches containing brand names increases brand awareness, product diversity and competition, competitors should compete to be displayed in advertising area of Google, the negative keyword agreement between ARABAM.COM and VAVA CARS essentially eliminated the competition for advertising area, the advertising area on the results page of searches made on Google is shared between competitors, the correspondence between ARABAM.COM and VAVA CARS, which is stated in Finding 3, aimed at reducing the product diversity in the search advertising market and sharing advertising area, thus disrupts the competitive structure. As a result, when the data above and the documents obtained during the on-site inspection carried out in the preliminary inquiry and investigation processes are examined, it is concluded that ARABAM.COM and VAVA CARS agreed on July 13, 2021, to mutually add their brand names to the negative keyword list in the broad match type through Google Ads and they determined a strategy together in the search advertising market.
- (149) Finally, given the documents obtained during on-site inspections and the data on the number of ad impressions and clicks, it is concluded that ARABAM.COM and VAVA CARS violated Article 4 of The Act no 4054 by sharing advertising area for certain queries on Google and by jointly determining strategies in the search advertising market.

⁶¹ Joined Cases C-236/08 to C-238/08, Google France, Opinion of Law Spkeman Poiarés Maduro Accessed: 02.02.2023

⁶² European Commission Flash Eurobarometer 439 Report, "The Use of Online Marketplaces and Search Engines by SMEs, [https://ec.europa.eu/information_society/newsroom/image/document/2016-24/fl_439_en_16137.pdf] p.4, Accessed: 07.03.2023

I.7.1.2.Assessment of the Number of ARABAM.COM's Ad Clicks

- (150) It is considered that the number of ad clicks as well as the number of ad impressions should be examined in order to reveal the impact of negative keyword matching within the scope of the investigation. In this context, graphics indicating how many times ads of ARABAM.COM are clicked in queries made by users on the Google search engine that include competing brand names, and the evaluations within this framework are given below.

✓ **The Number of ARABAM.COM's Ad Clicks in Google Queries Containing ARABA SEPETİ Brand Names**

- (151) In order to evaluate the search advertising relationship between ARABAM.COM and ARABA SEPETİ, the parties involved in the investigation, the number ARABAM.COM's ad clicks in Google queries containing the phrases "araba.com" and "kavak", which are the brand names of ARABA SEPETİ, was examined. In this context, the graphics on the number of ad clicks for queries containing the relevant brand names of ARABAM.COM are provided below.

Graphic-14: The Number of Ad Clicks for ARABAM.COM in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (152) It is seen in the graphic above, which includes the ad click data of ARABAM.COM for Google searches containing the phrases "araba.com" and "kavak" in 2020, users clicked on ARABAM.COM's ad during the year for "araba.com" in exact match type, however, the number of ARABAM.COM's ad clicks is quite low for the match types of the word "kavak". It is observed that the number of ad clicks of ARABAM.COM in 2020 has the same distribution as the graphic titled *"The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2020"* on the number of ARABAM.COM's ad impressions.
- (153) The table prepared to examine the data obtained from ARABAM.COM on the total number of ad impressions and ad clicks in queries containing the brand names ARABA SEPETİ in 2020 is presented below.

Table-18: The Number of Ad Impressions and Ad Clicks of ARABAM.COM on the Match Types of ARABA SEPETİ Brand Names in 2020

Word and Match Type	Ad impression	Ad click	Impression and Click Rate (%)
"araba.com" Exact Match	(.....)	(.....)	(.....)
"araba.com" Phrase Match	(.....)	(.....)	(.....)
"araba.com" Broad Match	(.....)	(.....)	(.....)
"kavak" Exact Match	(.....)	(.....)	(.....)
"kavak" Phrase Match	(.....)	(.....)	(.....)
"kavak" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (154) When the table above is examined, it is seen that the ad impression and click rates for ARABAM.COM's ARABA SEPETİ brand names are quite high. It is understood that more than half of the users who searched for "araba.com" or "kavak" or other related words on Google and saw an ARABAM.COM ad on the results page visited the website by clicking on the ARABAM.COM ad. In order to examine whether users clicked on

ARABAM.COM's ads intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-19: The Numbers of Ad Clicks and Bounces of ARABAM.COM in terms ARABA SEPETİ Brand Names in Terms of Match Types in 2020

Word and Match Type	Advertisement Click	Bounce Rate	Click Bounce Rate (%)
"araba.com" Exact Match	(.....)	(.....)	(.....)
"araba.com" Phrase Match	(.....)	(.....)	(.....)
"araba.com" Broad Match	(.....)	(.....)	(.....)
"kavak" Exact Match	(.....)	(.....)	(.....)
"kavak" Phrase Match	(.....)	(.....)	(.....)
"kavak" Broad Match	(.....)	(.....)	(.....)

Source: ARABAM.COM's Response Letter

- (155) As it is seen in the table above, ARABAM.COM has low bounce rates in the match types related to ARABA SEPETİ's brand names. When users search for "araba.com + another phrase", the bounce rate of ARABAM.COM's website is (.....)% and (.....)%, in addition, when users search for "kavak" and "kavak + another phrase", the bounce rate is (.....)%.
- (156) Accordingly, it is concluded that users who see the advertisement of ARABAM.COM on the Google search results page consider the website of ARABAM.COM to be relevant in their searches containing ARABA SEPETİ's brand names. Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or the Google algorithm, the display of advertisements of competitors operating in the sector on the results page of searches containing the brand name increases the consumer's preferences. It is understood from the data obtained above that more than half of the users who made queries containing the brand names of ARABAM.COM's competitors clicked on the advertisement of ARABAM.COM and approximately (.....)% of the users who clicked on the advertisement did not immediately exit the website of ARABAM.COM and stayed on the website.
- (157) The graphic including the number of monthly ad clicks for ARABAM.COM in searches containing the words "araba.com" and "kavak" in 2021 is given below.

Graphic-15: The Number of Ad Clicks for ARABAM.COM in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2021

(.....TRADE SECRET.....)

- (158) It is observed that, as it is in 2020, the number of ad clicks of ARABAM.COM in Google queries containing ARABA SEPETİ brand names in 2021 and the number of ad impressions indicated in the graphic titled "*The number of ARABAM.COM's ad impressions in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2021"* are parallel with each other. In this context, it is seen that ARABAM.COM obtained ad impressions and clicks in all match types for the word "araba.com" during 2021; in addition, there was an increase in the number of ad impressions and ad clicks for ARABAM.COM in the broad match type "araba.com" in the last two months of 2021. The table prepared to examine the relationship between the number of ad impressions and ad clicks of ARABAM.COM in terms of relevant words is given below:

Table-20: The Number of Ad Impressions and Ad clicks of ARABAM.COM for the Match Types of ARABA SEPETİ Brand Names in 2021

Word and Match Type	Ad Impression	Ad Click	Ad Impression Click Rate (%)
"araba.com" Exact Match	(.....)	(.....)	(.....)
"araba.com" Phrase Match	(.....)	(.....)	(.....)
"araba.com" Broad Match	(.....)	(.....)	(.....)
"kavak" Exact Match	(.....)	(.....)	(.....)
"kavak" Phrase Match	(.....)	(.....)	(.....)
"kavak" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (159) When the table above is examined, it is understood that among the users who searched for the word "araba.com" or other expressions along with the word "araba.com" on Google and saw the advertisement of ARABAM.COM on the results page, (.....) to (.....)% visited the website by clicking on the advertisement of ARABAM.COM. In order to examine whether users clicked on ARABAM.COM's ads intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-21: The Number of Ad Click and Bounces of ARABAM.COM for the Match Types of ARABA SEPETİ Brand Names in 2021

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"araba.com" Exact Match	(.....)	(.....)	(.....)
"araba.com" Phrase Match	(.....)	(.....)	(.....)
"araba.com" Broad Match	(.....)	(.....)	(.....)
"kavak" Exact Match	(.....)	(.....)	(.....)
"kavak" Phrase Match	(.....)	(.....)	(.....)
"kavak" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter (Document-123).			

- (160) As it is seen in the table above, ARABAM.COM has low bounce rates in the match types related to ARABA SEPETİ's brand names. When users search for "araba.com + another phrase", the bounce rate of the website of ARABAM.COM is (.....)% and (.....)%. In addition, when users search for "kavak" and "Kavak + another phrase", the bounce rate is (.....)%.
- (161) Depending on this, it is concluded that users who see and click on the advertisement of ARABAM.COM on the Google search results page find website of ARABAM.COM relevant to their searches containing ARABA SEPETİ's brand names. Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or within the framework of the Google algorithm, the display of advertisements of competitors operating in the sector on the results page of searches containing the brand name of the undertaking increases the consumer's preferences. It is inferred from the data above, more than half of the users who made searches containing the brand names of ARABA SEPETİ clicked on ARABAM.COM's ads and at least (.....)% of the users who clicked on the advertisement did not immediately exit website of ARABAM.COM and stayed there.
- (162) The graphic indicating the number of ad clicks monthly for ARABAM.COM in searches containing the words "araba.com" and "kavak" in 2022 is given below:

Graphic-16: The Number of Ad Clicks for ARABAM.COM in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2022

(.....TRADE SECRET.....)

- (163) When the graphic above on the number of ad clicks for ARABAM.COM in Google queries containing ARABA SEPETİ brand names is examined, it is seen that the number of ad clicks in 2022, as in the previous two years, is in line with the number of the ad impressions included in the graphic titled *"Ad Impressions of ARABAM.COM in Google Searches Containing the Words "araba.com" and "kavak" on a Monthly Basis in 2022"*. Therefore, as it is seen in previous sections, there is a direct relationship between the number of ad impressions and the number of ad clicks.
- (164) When the graphic indicating the number of ad clicks for ARABAM.COM in Google searches containing the phrases "araba.com" and "kavak" in 2022, it is understood that the number of ad clicks for ARABAM.COM in the broad match type "kavak" was higher in January and February compared to the rest of the year. In other words, users clicked on ARABAM.COM's ad more in January and February by users searching for "kavak + a generic phrase" on Google. Furthermore, users clicked on ARABAM.COM's ad in all match types for the phrase "araba.com" between January and September. On the other hand, it is observed that ARABAM.COM's ad did not appear on the results page for queries containing the relevant brand names of ARABA SEPETİ and therefore it was not clicked in the last three months of 2022. This situation is considered to be due to ARABAM.COM adding the words "araba.com" and "kavak" to its negative keyword list for all match types in October, November and December.
- (165) In order to do a detailed examination, the table indicating the relationship between the number of ad impressions and ad clicks for ARABAM.COM related to the words "araba.com" and "kavak" in 2022 is given below:

Table-22: The Number of Ad impressions and Ad Clicks of ARABAM.COM for the Match Types of ARABA SEPETİ Brand Names in 2022

Word and Match Type	Ad Impression	Ad Click	Display Click Rate (%)
"araba.com" Exact Match	(.....)	(.....)	(.....)
"araba.com" Phrase Match	(.....)	(.....)	(.....)
"araba.com" Broad Match	(.....)	(.....)	(.....)
"kavak" Exact Match	(.....)	(.....)	(.....)
"kavak" Phrase Match	(.....)	(.....)	(.....)
"kavak" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (166) When the table above is examined, it is understood that among the users who search for the brand name "araba.com" or the related brand name with other expressions on Google and see the advertisement of ARABAM.COM on the results page, between (.....)% and (.....)% visit the website and click on the advertisement of ARABAM.COM. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-23: The Number of Ad Clicks and Bounces of ARABAM.COM for Match Types of ARABA SEPETİ Brand Names in 2022

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"araba.com" Exact Match	(.....)	(.....)	(.....)
"araba.com" Phrase Match	(.....)	(.....)	(.....)
"araba.com" Broad Match	(.....)	(.....)	(.....)
"kavak" Exact Match	(.....)	(.....)	(.....)
"kavak" Phrase Match	(.....)	(.....)	(.....)
"kavak" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (167) As it is seen in the table above, ARABAM.COM has low bounce rates in match types related to ARABA SEPETİ's brand names; the bounce rate of ARABAM.COM's website for users' searches "araba.com + another phrase" is (.....)% and (.....)%. Additionally, the bounce rate for "Kavak + another phrase" searches is (.....)%; such that none of the (.....) users who clicked on the ad in the "kavak" broad match type immediately exited the website of ARABAM.COM. Thus, users who see ARABAM.COM's ads on the Google search results page are considered regard the website of ARABAM.COM relevant to their searches containing ARABA SEPETİ's brand names. Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or within the framework of the Google algorithm, the display of advertisements of competitors operating in the sector on the results page of searches containing the brand name of the undertaking increases the consumer preferences. It is understood from the data above that between (.....)% and (.....)% of the users who made searches containing the brand names of ARABA SEPETİ clicked on ARABAM.COM's ads, at least (.....)% of the users who clicked on the advertisement did not exit the website of ARABAM.COM immediately.
- (168) Briefly, the evaluation of the impression data sent by ARABAM.COM shows that the advertisement of ARABAM.COM was displayed and clicked on Google's results page in varying numbers in all match types for the word "araba.com" in 2020 and 2021. In other words, the advertisement of ARABAM.COM appeared on the results page when users searched for "araba.com" or "araba.com + generic phrase" on Google, and users clicked on the relevant advertisements. However, the advertisement of ARABAM.COM was been displayed or clicked on all match types for the word "araba.com" in the last three months of 2022. When the data obtained is examined, it is seen that ARABAM.COM had been negated for the word "araba.com" in the exact, phrase and broad match types in the last three months of 2022. Nevertheless, it is considered that the negation practice carried out by an undertaking with its independent commercial decision does not constitute a violation within the scope of The Act no 4054.

✓ **The Number of ARABAM.COM's Ad Clicks in Google Queries Including the LETGO OTOPLUS Brand Names**

- (169) In order to evaluate the search advertising relationship between ARABAM.COM and LETGO OTOPLUS, which are the parties to the investigation, the number of clicks ARABAM.COM's ads gain on Google searches containing the phrase "letgo", one of LETGO OTOPLUS's brand names, will be examined. In this context, the graphics on the number of ARABAM.COM's ad clicks for queries containing the relevant brand name of are given below.

Graphic-17: The Number of Ad Clicks on ARABAM.COM in Google Searches Containing the Word "letgo" on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (170) The graphic above, which indicates ad click data for ARABAM.COM in Google searches containing the phrase "letgo" in 2020, shows that users clicked on ARABAM.COM's ad during the year for the exact and phrase match types of the word "letgo" and the rate of clicks for the broad match type of "letgo" was higher in the first months of the year. It is seen that the number of ad clicks of ARABAM.COM in 2020 has the same distribution as the number of ARABAM.COM's ad impressions indicated in the graphic titled *"The Number of ARABAM.COM's Ad Impressions in Google Searches Containing the Word 'letgo' on a Monthly Basis in 2020"*. When the data on the number of ad impressions and ad clicks obtained from ARABAM.COM is examined in detail, it is seen that the number of ad impressions of ARABAM.COM in the "letgo" broad match type is (.....) in January, (.....) in February and (.....) in March, the number of ad clicks is (.....) in January, (.....) in February and (.....) in March. In this respect, it is seen that (.....)% of the users who searched for another word along with the word "letgo" and saw ARABAM.COM's ad on the results page visited the website of ARABAM.COM (.....)% in January, (.....)% in February and (.....)% in March. In order to examine whether users clicked on the advertisements of ARABAM.COM in searches containing the word "letgo" intentionally/not by mistake, according to the data sent by ARABAM.COM on the users who searched the word "letgo" with another word, regarding the rate of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks, (.....) out of (.....) users who clicked on the advertisements of ARABAM.COM in January 2020, (.....) out of (.....) users in February, and (.....) out of (.....) users in March, exited the website of ARABAM.COM immediately. Proportionally, the bounce rate of ARABAM.COM in the "letgo" broad match type is (.....)% in January, (.....)% in February, and (.....)% in March. In this regard, it can be interpreted that between (.....)% and (.....)% of the users visited the website of the rival undertaking by clicking on the advertisement and between (.....)% and (.....)% of them saw the website of the rival undertaking as relevant to their search in the first three months of 2020 in searches containing brand names; in other words, they did not leave the website of the rival undertaking immediately.
- (171) When ARABAM.COM's ad clicks and bounce rates are examined for the entire of 2020, it is seen that users clicked on ARABAM.COM's ad a total of (.....) times in the "letgo" phrase and broad match type, and a total of (.....) users who clicked on ARABAM.COM's ad in the relevant match types exited immediately. Proportionally, the bounce rate of ARABAM.COM is (.....)% for the phrase and broad match type "let go" in 2020 and in this respect, (.....)% of the users who searched the word "letgo" with another word and clicked on ARABAM.COM's ad on the results page considered the site of ARABAM.COM to be relevant to their search and therefore, the display of advertisements of rival undertakings on Google's results page increased the users' options.
- (172) In order to show the examination in detail in terms of ad impressions and clicks, the table containing the total number of ad impressions and ad clicks for ARABAM.COM related to LETGO OTOPLUS brand names in 2020 is given below:

Table-24: The Number of Ad Impressions and Ad Clicks of ARABAM.COM Related to Match Types of LETGO OTOPLUS Brand Names in 2020

Word and Match Type	ad impression	Ad Click	Display Click Rate (%)
"letgo" Exact Match	(.....)	(.....)	(.....)
"letgo" Phrase Match	(.....)	(.....)	(.....)
"letgo" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (173) When the table above is examined, it is seen that ARABAM.COM has a high ad impression and click-through rate for the word "letgo" in all match types. In this context, it is understood that (.....)% and (.....)% of the users who searched the word "letgo" with other word(s) on Google and saw the advertisement of ARABAM.COM on the results page, and %(.....) of the users who searched only the word "letgo" on Google and saw the advertisement of ARABAM.COM on the results page, visited the website of ARABAM.COM. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users who exited immediately the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-25: The Number of Ad Clicks and Bounces of ARABAM.COM for the Match Types of LETGO OTOPLUS Brand Names in 2020

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"letgo" Exact Match	(.....)	(.....)	(.....)
"letgo" Phrase Match	(.....)	(.....)	(.....)
"letgo" Broad Match	(.....)	(.....)	(.....)

- (174) As it is seen in the table above, it is understood that in the match types related to brand names of LETGO OTOPLUS, the bounce rates of ARABAM.COM are low in all match types of the word "letgo"; in the "letgo + another phrase" searches made by the users, the bounce rates of the website of ARABAM.COM are (.....)% and (.....)%; in addition, the bounce rate for searches only about "letgo" is (.....)%. In this regard, it is considered that users who see ARABAM.COM's ads on the results page of searches containing LETGO OTOPLUS's brand names on Google consider the website of ARABAM.COM to be relevant to their searches. Therefore, it is considered that, due to the advertising campaign carried out by ARABAM.COM and/or the Google algorithm, the display of advertisements of rival undertakings operating in the sector on the results page of searches containing the brand name increases user preferences. The evaluation of the table above concludes that (.....)% of the users who searched for ARABAM.COM's competitor LETGO OTOPLUS with a generic expression (in terms of "letgo" phrase match type) clicked on ARABAM.COM's ad, only (.....)% of the users who clicked on the ad exited immediately the website of ARABAM.COM and the users found the website of ARABAM.COM relevant to their search (letgo + another expression). Therefore, displaying ads of rival companies on Google's results page increases users' options.

Graphic-18: The Number of Ad Clicks on ARABAM.COM in Google Searches Containing the Word "letgo" on a Monthly Basis in 2021

(.....TRADE SECRET.....)

- (175) When the graphic above, which shows the number of ad clicks on ARABAM.COM in Google queries containing the phrase "letgo" in 2021, is examined, it is understood that users clicked on ARABAM.COM's ad during the year in the exact and phrase match types of the word "letgo" and the number of clicks in the broad match type of "letgo" was high in the last two months of the year. It is seen that the number of ad clicks of ARABAM.COM in 2021 has the same distribution as the graphic titled "*The Number of Ad impressions of ARABAM.COM in Google Searches Containing the Word 'letgo' on a Monthly Basis in 2021*", which includes the number of ad impressions of ARABAM.COM.
- (176) When the data on the number of ad impressions and ad clicks obtained from ARABAM.COM is examined in detail, it is seen that the number of ad impressions of ARABAM.COM in the "letgo" broad match type is (.....) in November and (.....) in December, the number of ad clicks is (.....) in November and (.....) in December. In this respect, it is seen that the users searched for the word "letgo" with another word and saw ARABAM.COM's ad on the results page then, (.....)% of them visited the website of ARABAM.COM in November and (.....)% of them visited the same page in December. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake in searches containing the word "letgo", when the rate of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks is examined, it is understood that the bounce rate of ARABAM.COM in the broad match type "letgo" was (.....)% in November and (.....)% in December in the data sent by ARABAM.COM. In this regard, it can be interpreted when the number of displays and clicks in the "letgo" broad match type was the highest, approximately (.....)% of the users clicked on the advertisement and visited the website of ARABAM.COM, (.....)% and (.....)% of them saw the website of the rival undertaking as relevant to their search in the last two months of 2021, in other words, they did not leave the website of the rival undertaking immediately.
- (177) When ARABAM.COM's ad clicks and bounce rates are examined for the entire 2021, it is seen that users clicked on ARABAM.COM's ad (.....) times in the "letgo" phrase and broad match type, and (.....) of the users who clicked on ARABAM.COM's ad in the relevant match types immediately exited. Proportionally, it is considered that the bounce rate of ARABAM.COM was (.....)% for the phrase and broad match type "letgo" in 2020, in this regard, (.....)% of users who searched for "letgo" along with another word and clicked on ARABAM.COM's ad on the results page found the site of ARABAM.COM relevant to their search. Therefore, the ads display of competitors on Google's results page increases users' options.
- (178) In order to show the examination in detail in terms of ad impressions and clicks, the table containing the total number of ad impressions and ad clicks for ARABAM.COM related to LETGO OTOPLUS brand names in 2021 is given below:

Table-26: The Number of Ad impressions and Ad Clicks of ARABAM.COM for the Match Types of LETGO OTOPLUS Brand Names in 2021

Word and Match Type	Ad Impression	Ad Click	Impression Click Rate (%)
"letgo" Exact Match	(.....)	(.....)	(.....)
"letgo" Phrase Match	(.....)	(.....)	(.....)
"letgo" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (179) When the table above is examined, it is seen that ARABAM.COM has a high rate of ad impressions and clicks in the broad match type for the word "letgo". In this context, it is

understood that the users who searched the word "letgo" with other word(s) on Google and saw the advertisement of ARABAM.COM on the results page, (.....)% and (.....)% of them visited the website of ARABAM.COM and of the users who searched only the word "letgo" on Google and saw the advertisement of ARABAM.COM on the results page, (.....)% visited this website. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given in the following table:

Table-27: The Number of Ad Clicks and Bounces of ARABAM.COM for the Match Types of LETGO OTOPLUS Brand Names in 2021

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"letgo" Exact Match	(.....)	(.....)	(.....)
"letgo" Phrase Match	(.....)	(.....)	(.....)
"letgo" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (180) As it is seen in the table above, it is understood that the bounce rates of ARABAM.COM are low in all match types of the word "letgo" in the "letgo + another phrase" searches made by the users, the bounce rates of the website of ARABAM.COM are (.....)% and (.....)%, in addition, the bounce rate for searches only about "letgo" is (.....)% in the match types related to brand names of LETGO OTOPLUS. In this regard, it is concluded that users find the website of ARABAM.COM relevant to their searches containing LETGO OTOPLUS brand names. Therefore, it is considered that, due to the advertising campaign carried out by ARABAM.COM and/or the Google algorithm, the display of advertisements of rival undertakings operating in the sector on the results page of searches containing the brand name increases user preferences. It is evaluated that (.....)% of the users who searched for ARABAM.COM's competitor LETGO OTOPLUS with a generic expression (in terms of "letgo" broad match type) clicked on ARABAM.COM's ad, only (.....)% of the users who clicked on the ad immediately exited the website of ARABAM.COM and the users saw the website of ARABAM.COM as relevant to their search (letgo + another expression). Therefore, displaying competitors' ads on Google results page increases users' preferences.

Graphic-19: The Number of Ad Clicks of ARABAM.COM in Google Searches Containing the Word "letgo" on a Monthly Basis in 2022

(.....TRADE SECRET.....)

- (181) 2022 data on the number of ad clicks on ARABAM.COM in Google searches containing LETGO OTOPLUS brand names will be examined. In this context, it is seen that the data in the graphic above, which shows the number of ad clicks for ARABAM.COM in Google searches containing the word "letgo" in 2022, is parallel to the graphic titled "*The Number of Ad impressions for ARABAM.COM in Google Searches Containing the Word 'letgo' on a Monthly Basis in 2022*". In this respect, it is understood that at the beginning of 2022, the advertisement of ARABAM.COM is displayed and clicked for all match types of the word "letgo" and the number of displays and clicks in the "letgo" broad match type was higher than the other match types. This is an indication that ARABAM.COM's ad is displayed and the relevant ad is clicked when the word "letgo" is searched on Google

along with the generic expression(s). It is observed that the number of ad impressions and clicks of ARABAM.COM decreased for all match types of the word "letgo" for the remaining of 2022. For this reason, it would be logical to focus on January and February in the data on the number of ad impressions and ad clicks obtained from ARABAM.COM. In this context, it is seen that the number of ad impressions of ARABAM.COM in the "letgo" broad match type was (.....) in January and (.....) in February, and the number of ad clicks was (.....) in January and (.....) in February. Thus, it is seen that out of the users who searched for the word "letgo" together with another word and saw ARABAM.COM's ad on the results page, (.....)% of them visited the website of ARABAM.COM in January and (.....)% visited the same website in February. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake in searches containing the word "letgo", it is understood that the bounce rate of ARABAM.COM in the "letgo" broad match type was (.....)% in January and (.....)% in February, given the rate of users exiting immediately the website of ARABAM.COM. In this regard, it is thought that in the first two months of 2022, when the number of displays and clicks in the "letgo" broad match type was the highest, approximately (.....)% to (.....)% of the users clicked on the advertisement of ARABAM.COM and visited the website, and (.....)% to (.....)% of them did not exit the undertaking's website immediately therefore they saw the rival undertaking's website as relevant to their search.

- (182) When the ad clicks and bounce rates of ARABAM.COM are examined for the entire year 2022, it is seen that users clicked on ARABAM.COM's ad (.....) times totally in the "letgo" phrase and broad match type, and the users clicked on ARABAM.COM's ad in the relevant match types immediately, (.....) of them exited. Proportionally, it is evaluated that the bounce rate of ARABAM.COM in the phrase and broad match type "letgo" in 2020 was (.....)% and in this respect, (.....)% of the users who searched the word "letgo" with another word and clicked on ARABAM.COM's ad on the results page found the site of ARABAM.COM to be relevant to their search and therefore, the display of advertisements of rival undertaking on Google's results page increased the users' options.
- (183) In order to show the examination in detail in terms of ad impressions and clicks, the table containing the total ad impressions and ad clicks for ARABAM.COM' in terms of LETGO OTOPUS brand names in 2022 is given below:

Table-28: The Number of Ad impressions and Ad Clicks of ARABAM.COM in terms of LETGO OTOPUS Brand Names for the Match Types in 2022

Word and Match Type	ad impression	Ad Click	Display Click Rate (%)
"letgo" Exact Match	(.....)	(.....)	(.....)
"letgo" Phrase Match	(.....)	(.....)	(.....)
"letgo" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (184) When the table above is examined, it is seen that ARABAM.COM has a high rate of ad impression and click for the word "letgo" in phrase and broad match types. In this context, it is understood that the users searched the word "letgo" with other word(s) on Google and saw the advertisement of ARABAM.COM on the results page, %(.....) and %(.....) of them visited the website of ARABAM.COM and out of the users searched only the word "letgo" on Google and saw the advertisement of ARABAM.COM on the results page, %(.....) of them visited the website. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users

who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-29: The Number of Ad Clicks and Bounces of ARABAM.COM for the Match Types of LETGO OTOPLUS Brand Names in 2022

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"letgo" Exact Match	(.....)	(.....)	(.....)
"letgo" Phrase Match	(.....)	(.....)	(.....)
"letgo" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (185) As it is seen in the table above, in the match types related to the brand names of LETGO OTOPLUS, the bounce rate of ARABAM.COM is low in all match types for the word "letgo"; in the "letgo + another phrase" searches made by the users, the bounce rate of the website of ARABAM.COM is (.....)% and (.....)%. In addition, the bounce rate is (.....)% in the searches of only "letgo". In this regard, it is thought that users who see the advertisement of ARABAM.COM on the Google search results page find the website of ARABAM.COM as relevant to their searches containing LETGO OTOPLUS's brand names. Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or the Google algorithm, the display of advertisements of rival undertakings operating in the sector on the results page of searches containing the brand name increases the preferences of the users. When data above is evaluated, it is understood that (.....)% of the users who searched for LETGO OTOPLUS, a competitor of ARABAM.COM, with a generic expression (in terms of the phrase "letgo" match type) next to its brand name, clicked on the advertisement of ARABAM.COM, none of the users who clicked on the advertisement exited immediately the website of ARABAM.COM and the users found the website of ARABAM.COM as relevant to their search (letgo + another expression).
- (186) An evaluation of the displaying data sent by ARABAM.COM indicates that users displayed and clicked on ARABAM.COM's ad in all match types for the word "letgo" on Google's results page in varying numbers for three years. In other words, ARABAM.COM's ad appeared on the results page for user queries for "letgo" or "letgo + generic phrase" on Google, and users clicked on the relevant ad, then, ARABAM.COM's ad impressions and clicks have decreased significantly for all match types for the word "letgo" in the last six months of 2022. When the obtained data is examined, it is seen that ARABAM.COM made exact, phrase and broad match negotiations on the brand names of LETGO OTOPLUS in the last six months of 2022, but it is considered that the negotiation practice carried out by an undertaking with its independent commercial decision does not constitute a violation within the scope of the Act no 4054. In this context, when it is considered that no correspondence was found between ARABAM.COM and LETGO OTOPLUS that constituted negative keyword agreement during the on-site examinations carried out during the Preliminary Inquiry and Investigation processes, it is concluded that there is no practice between ARABAM.COM and LETGO OTOPLUS that constitutes a competition violation pursuant to Article 4 of The Act no 4054.

✓ **The Number of Ad Clicks of ARABAM.COM in Google Queries Containing VAVA CARS Brand Names**

- (187) In order to evaluate the search advertising relationship between ARABAM.COM and VAVA CARS, which are the parties to the investigation, the number of clicks on the advertisements of ARABAM.COM in Google queries containing the phrase "vavacars", one of VAVA CARS's brand names, will be examined. In this context, the graphics on the number of ad clicks on ARABAM.COM for queries containing the relevant brand name of are given below:

Graphic-20: The Number of Ad Clicks on ARABAM.COM in Google Searches Containing the Word "vavacars" on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (188) The data in the graphic above, which shows the number of ad clicks of ARABAM.COM in Google searches containing the word "vavacars" in 2020, is similar to the graphic titled "*Ad impressions of ARABAM.COM for Searches Containing the Word "vavacars" on a Monthly Basis in 2020.*" The relevant ad impression graphic shows that ARABAM.COM's ad was frequently displayed for the exact match type "vavacars" in January and February. In other words, the number of ad impressions of ARABAM.COM was higher for Google searches containing only the word "vavacars." When the ad click graphic above is examined, it is understood that, similar to the ad impression graphic, the number of ad clicks for ARABAM.COM was higher in January and February for searches on Google that included only the word "vavacars", in addition, users clicked on ARABAM.COM's ad for Google searches containing other words besides the word "vavacars" (phrase match) in September, October and November. Like the impression graphic, it is also considered beneficial to examine ad click data in a separate graphic, since ad click data for phrase and broad match types have lower values than the exact match type. In this context, the graphic that shows how many times ARABAM.COM ads were displayed in Google searches made by users that included the word "vavacars" with another word(s) is given below:

Graphic-21: The Number of Ad Clicks of ARABAM.COM for Searches Containing the Word "vavacars" (Phrase and Broad Match types) on a Monthly Basis in 2020

(.....TRADE SECRET.....)

- (189) It is seen that the ad clicks graphic above is parallel to the graphic titled "Monthly Ad impressions of ARABAM.COM for Searches Containing the Word "vavacars" (Phrase and Broad Match) in 2020." The relevant ad impression graphic shows that the ad impression of ARABAM.COM was high in September, October and November, similarly ARABAM.COM's ad clicks were high for the phrase match type of the word "vavacars" in the same period.
- (190) In order to show the examination in detail in terms of ad impressions and clicks, the table containing the total number of ad impressions and ad clicks for ARABAM.COM related to VAVA CARS brand names in 2020 is given below:

Table-30: The Number of Ad impressions and Ad Clicks of ARABAM.COM for the Match Types of VAVA CARS Brand Names in 2020

Word and Match Type	Ad impression	Ad Click	Impression Click Rate (%)
"vavacars" Exact Match	(.....)	(.....)	(.....)
"vavacars" Phrase Match	(.....)	(.....)	(.....)
"vavacars" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (191) The examination of the table above shows that ARABAM.COM has a high ad impression and clicking rate for the word "vavacars" in phrase and broad match types. In this respect, it is understood that out of the users searched for the word "vavacars" along with other word(s) on Google, saw the advertisement of ARABAM.COM on the results page and %(.....) and %(.....) of them visited the website of ARABAM.COM. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-31: The Number of Ad Clicks and Bounces of ARABAM.COM for the Match Types of VAVA CARS Brand Names in 2020

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"vavacars" Exact Match	(.....)	(.....)	(.....)
"vavacars" Phrase Match	(.....)	(.....)	(.....)
"vavacars" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter.			

- (192) As it is seen in the table above, ARABAM.COM has low bounce rates for match types related to VAVA CARS' brand names, when users search for "vavacars + another phrase", the bounce rate of the website of ARABAM.COM is (.....)% and when users search for only "vavacars", the bounce rate is (.....)%. In this regard, it is evaluated that users find the website of ARABAM.COM relevant to their Google searches containing VAVA CARS' brand names. Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or the Google algorithm, the display of advertisements of rival undertakings operating in the sector on the results page of searches containing the brand name increases the preferences of the users. (.....)% of the users who searched for the brand name of VAVA CARS, which is a competitor of ARABAM.COM, along with a generic phrase clicked on the advertisement of ARABAM.COM, none of the users who clicked on the advertisement exited the website of ARABAM.COM immediately and the users saw the website of ARABAM.COM as relevant to their search (vavacars + another phrase).

Graphic-22: The Number of Ad Clicks on ARABAM.COM in Google Searches Containing the Word "vavacars" on a Monthly Basis in 2021

(.....TRADE SECRET.....)

- (193) The graphic above, which contains the ad click data of ARABAM.COM for 2021, is parallel to the 2021 ad impression graphic in the section titled "The ad impressions of ARABAM.COM in Google Searches Including the VAVA CARS Brand Names." It is seen

in the relevant ad impression graphic that the number of ad impressions for ARABAM.COM in the broad match type of the word "vavacars" was higher in September, October, and November compared to the rest of the year, similarly, it is seen in the click graphic above that the number of ad clicks for ARABAM.COM in the broad match type of the word "vavacars" was higher in the same period.

- (194) In order to show the examination in detail in terms of ad impressions and clicks, the table containing the total number of ad impressions and ad clicks for ARABAM.COM's VAVA CARS brand names in 2021 is given below:

Table-32: The Number of Ad Impressions and Ad Clicks of ARABAM.COM for the Match Types of VAVA CARS Brand Names in 2021

Word and Match Type	Ad impression	Ad Click	Impression Click Rate (%)
"vavacars" Exact Match	(.....)	(.....)	(.....)
"vavacars" Phrase Match	(.....)	(.....)	(.....)
"vavacars" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter.			

- (195) When the table above is examined, it is seen that ARABAM.COM has a high rate of ad impressions and clicks in the phrase match type for the word "vavacars". At that point, it is understood that %(.....) of the users who searched the word "vavacars" with other word(s) on Google and saw the advertisement of ARABAM.COM on the results page visited the website of ARABAM.COM. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM as a result of the relevant clicks and the data on the bounce rate are given below:

Table-33: The Number of Ad Clicks and Bounces of ARABAM.COM for the Match Types of VAVA CARS Brand Names in 2021

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"vavacars" Exact Match	(.....)	(.....)	(.....)
"vavacars" Phrase Match	(.....)	(.....)	(.....)
"vavacars" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (196) As it is seen in the table above, ARABAM.COM has low bounce rates for match types related to VAVA CARS' brand names, when users search for "vavacars + another phrase", the website of ARABAM.COM bounce rates are (.....)% and (.....)%; and in addition, when users search for only "vavacars", the bounce rate is (.....)%. In this respect, it is evaluated that users find the website of ARABAM.COM relevant to their Google searches containing VAVA CARS' brand names. Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or within the framework of the Google algorithm, the display of advertisements of rival undertakings operating in the sector on the results page of searches containing the brand name increases the preferences of the users. As it is understood from the data above, (.....)% of the users who searched for ARABAM.COM's competitor VAVA CARS with a generic expression (in terms of "vavacars" phrase match type) next to its brand name clicked on the advertisement of ARABAM.COM, only (.....)% of the users who clicked on the advertisement exited immediately the website of ARABAM.COM and the users saw the website of ARABAM.COM as relevant to their search (vavacars + another expression).

- (197) In order to evaluate the search advertising relationship between ARABAM.COM and VAVA CARS, the number of ad clicks of ARABAM.COM in Google searches containing the phrase "vavacars" in 2022 will be examined.

Graphic-23: The Number of Ad Clicks for ARABAM.COM in Google Searches Containing the Word "vavacars" on a Monthly Basis in 2022

(.....TRADE SECRET.....)

- (198) When the graphic above is examined, it is seen that the number of ad clicks of ARABAM.COM in 2022, as in 2020 and 2021, is similar to the 2022 ad impression graphic. For example, it is observed in the graphic titled *"Ad impressions of ARABAM.COM in Searches Containing the Word 'vavacars' on a Monthly Basis in 2022,"* the ads of ARABAM.COM appeared on Google's results page in January and February of 2022 with the broad match type "vavacars" and in September with the exact match type "vavacars." However, the ads of ARABAM.COM were displayed very little or not at all in Google searches containing the word "vavacars" for the rest of 2022. Similarly, the graphic above on the number of clicks for the ads of ARABAM.COM in Google searches containing the word "vavacars" shows that users clicked on the ads of ARABAM.COM for the broad match type of "vavacars" in January and February, and for the exact match type of "vavacars" in September.
- (199) It is seen in the data sent by ARABAM.COM that the number of the ad impressions of ARABAM.COM is (.....) in January, (.....) in February and the number of ad clicks is (.....) in January and (.....) in February in Google searches containing the word "vavacars" (in the broad match type). In this context, out of the users searched other words besides the word "vavacars" and they displayed the advertisement of ARABAM.COM on the results page, %(.....) of them visited the website of ARABAM.COM in January and %(.....) of them visited the same website in February. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake in searches containing the word "vavacars", when the rate of users who immediately exited the website of ARABAM.COM is examined as a result of the relevant clicks, it is seen that (.....) users clicked on the advertisement of ARABAM.COM and (.....) of them exited the website of ARABAM.COM immediately in January 2022 and none of the (.....) users who clicked on the advertisement exited the website of ARABAM.COM immediately in February in terms of users who searched for the word "vavacars" together with other word(s). Proportionally, it is understood that the bounce rate of ARABAM.COM is (.....)% for the broad match type "vavacars" in January and (.....)% in February. In this regard, between (.....) and (.....)% of the users visited the website of the rival undertaking by clicking on the advertisement and between (.....) and (.....)% of them did not exit the website of the rival undertaking immediately in searches containing brand names, in the first two months of 2022, in other words, the users saw the website of the rival undertaking as relevant to their search.
- (200) In order to show the examination in detail in terms of ad impressions and clicks, the table containing the total number of ad impressions and ad clicks for ARABAM.COM in terms of VAVA CARS brand names in 2022 is given below:

Table-34: The Number of Ad impressions and Ad Clicks of ARABAM.COM for the Match Type of VAVA CARS Brand Names in 2022

Word and Match Type	ad impression	Ad Click	Display Click Rate (%)
"vavacars" Exact Match	(.....)	(.....)	(.....)
"vavacars" Phrase Match	(.....)	(.....)	(.....)
"vavacars" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (201) When the table above is examined, it is seen that ARABAM.COM has a high rate of ad impressions and clicks in the phrase match type for the word "vavacars". In this respect, it is understood that out of the users searched the word "vavacars" with other word(s) on Google and saw the advertisement of ARABAM.COM on the results page, %(.....) of them visited the website of ARABAM.COM. In order to examine whether users clicked on the advertisements of ARABAM.COM intentionally/not by mistake, the number of users who immediately exited the website of ARABAM.COM and the data on the bounce rate as a result of the relevant clicks are given below:

Table-35: The Number of Ad Clicks and Bounces of ARABAM.COM for the Match Type of VAVA CARS Brand Names in 2022

Word and Match Type	Ad Click	Bounce	Click Bounce Rate (%)
"vavacars" Exact Match	(.....)	(.....)	(.....)
"vavacars" Phrase Match	(.....)	(.....)	(.....)
"vavacars" Broad Match	(.....)	(.....)	(.....)
Source: ARABAM.COM Response Letter			

- (202) As it is seen in the table above, the bounce rate of ARABAM.COM is (.....)% for the phrase match type "vavacars", in other words, in terms of the phrase match type "vavacars", (.....) users clicked on ARABAM.COM's ad and none of them exited the website of ARABAM.COM immediately, in addition, the bounce rate is (.....)% only for "vavacars" in queries in the match types related to the brand names of VAVA CARS. In this regard, it is considered that users who see the advertisement of ARABAM.COM on the Google search results page find the website of ARABAM.COM relevant in their searches containing VAVA CARS's brand names (in terms of phrase and broad match). Therefore, it is considered that due to the advertising campaign carried out by ARABAM.COM and/or within the framework of the Google algorithm, the display of advertisements of rival undertakings operating in the sector on the results page of searches containing the brand name increases the preferences of the users. It is concluded that out of the users searched for the brand name of VAVA CARS, which is a competitor of ARABAM.COM, along with a generic expression (in terms of the phrase Match type "vavacars"), %(.....) of them clicked on the advertisement of ARABAM.COM, none of the users who clicked on the advertisement exited the website of ARABAM.COM immediately and the users saw the website of ARABAM.COM as relevant to their search (vavacars + another expression).
- (203) Briefly, when the ad click graphics of ARABAM.COM are compared with its ad impression graphics, for 2020, 2021 and 2022 within the scope of ad impression and click data obtained ARABAM.COM, it is seen that the graphics are similar in terms of years and match types and ARABAM.COM's ad attracted clicks during the periods it was displayed. Therefore, it is concluded in the absence of ad impressions, there is a decrease in traffic, users who perform searches containing the brand name on Google also visit the websites of rival undertakings by clicking on the advertisements of rival

undertakings displayed on the results page, the bounce rate of the rival undertakings is low, and therefore, users find the websites of rival undertakings relevant to their searches. In this context, it is understood that displaying advertisements of rival undertakings on Google's results page increases users' preferences and brand awareness of companies.

1.7.2. General Assessment

- (204) Search advertising is the display of ads related to users' searches using specific words on search engines like Google, on the search results page. Ads are generally listed at the top of the results page for user queries, then, organic results are given in Google search engine. Organic search results, which are the area of interest for SEO (Search Engine Optimization), are the results determined by the search engine algorithm to be most relevant to users' searches. These results are arranged according to relevance and undertakings do not pay anything to appear on these results. Sponsored results, which fall under the area of SEM (Search Engine Marketing), are search-based ads in which websites pay for specific keywords to be featured among search results. Advertisers primarily use the sponsored results section of a search engine to promote their website or brand. Paid results are separated from organic results by labels (such as advertising or sponsored), or paid results are located within colored/shaded boxes or in a clustered position up, low, or next to organic results.
- (205) The Google Ads search network works on "keyword" targeting and uses a pay-per-click costing model. A search engine determines which ads to display in response to a search based, in part, on the relevance of that search to the "keywords" chosen by advertisers. Advertisers are free to choose the keywords they want, taking into account their field of activity and the customer base they target. They can bid on generic search terms used in the sectors in which they operate and/or on each other's brand names in the tender to be featured in the sponsored results section of the search results page. In addition, it is observed that when the owner of the brand name does not create an advertising campaign on its own behalf, its competitor may appear at the top of Google's advertising section in the relevant brand search. The advertising field is above the organic results on Google's results page. Therefore, there is a competitive structure among advertisers in Google Ads tenders, as undertakings aim to rank at the top of Google's results page. It is understood that if a website is included in both organic and advertising areas, the click-through rate is 5% higher than if it is included only in organic results.⁶³
- (206) When users search Google for brand names and generic expressions, they will be able to see competitors operating in the same field in the relevant search results and will be given the opportunity to click on the websites of the brand owner's competitors. This is especially important for undertakings that are new to the sector and/or do not have high brand awareness. When users search on Google for an undertaking with high brand awareness using generic terms used in the industry (e.g., "car" or "used" for this purpose), the undertaking with low brand awareness will be triggered by these generic phrases and appear in the ad area on Google's results page. For example, if a Google search is for "trink sat ikinci el araç," [sell on the spot used car] VAVA CARS's ad may be triggered by the keyword "used car" and appear on the results page of that search. However, due to negative keyword agreements made in various match types, when users search with generic words next to the brand names of undertakings, only the advertisement of the relevant brand will be displayed on the results page. As a result of negative keyword agreements, when a search is made on Google for "trink sat ikinci el

⁶³ Aykut ALÇELİK, Google Ads, 2020, p.330

araç”, only the advertisement of ARABAM.COM will be displayed on the results page, triggering the ads of competitors operating in the sector through generic words such as second hand and/or car will be prevented, and ads of undertakings operating in the sector will not be displayed on Google’s results page.

- (207) When the differences in negative keyword agreements that arise within the scope of negative match types are examined, it is seen that if certain words are negated in the broad match type on Google Ads, the undertakings’ ad will not be triggered in any query that includes the negated word and it will not be displayed on the results page. In the event that the advertiser negates a word as a phrase match, the undertaking’s advertisement will not be displayed in queries containing the same order as the negated phrase. If the advertiser negates a word as an exact match, the undertaking’s advertisement will not be displayed when an exactly same query is made with the negated word.
- (208) Advertisers select “keywords” that they deem relevant to their activities through Google Ads and trigger the appearance of their ads on queries made by users.⁶⁴ Therefore it is stated in the Commission’s report titled *“The use of online marketplaces and search engines by SMEs”* that two-thirds of online sales companies accept that their position on the search results page has a significant impact on sales, and that approximately six out of ten companies use search engine optimization techniques to appear higher in search results.⁶⁵ Therefore, it is considered that being at the top of the Google search engine is important for undertakings and undertakings should compete in this context. It is stated in the Board’s decision on *Google Adwords*⁶⁶ that text ads are used for a marketing approach that aims to attract an audience that is already inclined to purchase a product or service through search engines to the site (pull approach) and the advertiser’s aim is to attract traffic and increase sales. On the other hand, it is emphasized that users can reach a broader range of content related to the searched word, and higher conversion rates can be achieved through text ads as a result of better identifying the target consumer. In addition, it is clarified that text ads have the ability to partially increase competition by allowing smaller players to appear at the top of the rankings.
- (209) Negative keyword matching through Google Ads serves the purpose of preventing ads to appear on unwanted Google searches that are outside the area of activity. It can be explained with an example as follows: a pet shop selling pet food can add the word “baby” to its broad match negative keyword list to prevent its ad from being triggered by the word “food” when users search for “baby food” on Google. This will prevent the pet shop’s advertisement from being displayed outside the area where it operates. Undertakings operating in the same sector mutually add their brand names to the negative list in the conduct under investigation. In this manner, the negative keyword matching application offered by Google Ads goes beyond the intended use given in the pet shop example. The mutual negation process carried out by rival undertakings on their brand names prevents triggering their advertisements even if generic words used as search terms in the sector are added next to the brand names in the searches made on the Google search engine. For example, when the search for “brand + car valuation” is made on Google, ads of undertakings that negate the relevant brand will not be

⁶⁴ Joined Cases C-236/08 to C-238/08, Google France, Opinion of the Law Spokesman Póiares Maduro Accessed: 02.02.2023

⁶⁵ European Commission Flash Eurobarometer 439 Report, “The Use Of Online Marketplaces And Search Engines by SMEs”, [https://ec.europa.eu/information_society/newsroom/image/document/2016-

⁶⁶ Decision dated 12.11.2020 and no 20-49/675-295

triggered from the generic phrase “car valuation” and they will not be displayed. This situation prevents the rival undertaking's advertisement from being displayed even in searches containing generic words, contrary to the nature of the advertisement. It is stated in the report published by the CMA⁶⁷ about the subject of the file that although digital comparison tools appear similar at first glance in terms of their purposes, they differ in terms of their effects. Although it is thought that the agreements made between the undertakings to negate the brand names as broad, phrase and exact match restrict competition by object, it is understood that an impact assessment should be made in order to evaluate the results it creates in the search advertising market.

- (210) Another drawback of negative matching on brand names is that undertakings having a high market share send a warning to undertakings having less competitive power and request that their brand names be negative for all matching types depending on IPL. When the undertakings having low market power make a negation in response to requests from rival undertakings to negate brand names, the undertakings' advertisements will be prevented from being triggered in “brand + generic word” queries made on Google, in this context, undertakings that have low brand awareness and do not have as much marketing and advertising budget as undertakings having high market power will lose area in Google ads.
- (211) In previous sections, the reasons for preferring search advertising are listed as providing access to a wider audience at lower costs, cost control, and faster returns. It would be expected that an undertaking that has just entered the market and/or has not yet created brand awareness would make an advertising campaign through Google Ads due to the positive advantages listed above. In this context, the advertisements of the undertaking advertising generic words (without trademark rights) can be shown as an option to the consumer in “competitor brand + generic word” searches through the Google algorithm. In this manner, the owner of the brand name sends a warning letter to the advertiser due to illegal trademark use. However, the point to be noted here is that the advertiser does not advertise on/target a rival brand. The advertiser's advertisement is displayed because a generic expression is triggered and/or the Google algorithm offers the consumer an option.
- (212) Article 7(3)(d) of the IPL includes the expression “*Using the same or a similar sign as a domain name, guiding code, keyword or similar form in a way that creates a commercial effect on the internet, provided that the person using the sign does not have the right or legitimate connection to the use of the sign.*” Particular attention should be paid to the phrase “use” in the relevant provision. The undertaking does not use (target, advertise) the competitor's brand name, the undertaking's advertisement is triggered and displayed on the results page due to generic/non-brand name search terms and/or the Google algorithm in the example above. In this context, it is considered that the relevant provisions of the IPL should not be interpreted in an expansive manner. Sending a warning letter and requesting to be included in the negative word list when there is no use (advertising, targeting) of rival brand names, exceeds the limits of the trademark right protected under the IPL. Another subject that should be mentioned at this point is that the equivalent, in Google Ads, of the trademark right protected under the relevant provision of the IPL is not performing ad targeting. The application of negative keyword matching is related to the advertising strategy of the advertiser, as explained in the pet shop example. Mutual negative matching between undertakings not only protects

⁶⁷ CMA, (2017) “Digital Comparison Tools Market Study Paper E: Competitive Landscape and Effectiveness of Competition” p.62-65.

trademark rights under IPL but also prevents ads from being triggered due to generic words and offered an option to consumers through the Google algorithm and it causes that in brand searches, only that a certain brand's ad appears thus creates an effect in the form of sharing of advertising area.

- (213) Another issue on negation is that undertakings gain a cost advantage in Google Ads tenders due to mutually adding their brand names as negative keywords. The cost advantage is evaluated in the previous sections of the report. In addition, it is understood that marketing and advertising budgets of the undertakings are separate and the cost advantage provided in the relevant budget is also evaluated within marketing and advertising budget. Therefore, in this regard, even if it is thought that undertakings gain a cost advantage from negative matching practices, it is seen that this is not reflected on the consumer, only a lower fee is paid to Google, but in the circumstances where the cost advantage arising from negation is used to advertise through Google Ads, there is no change in the undertaking's budget allocated to Google Ads.
- (214) The last issue to mention about negation is related to the words under trademark protection. Generic expressions that are used as keywords in the online used car purchasing and selling market can be listed as car, used, auto, vehicle, sell, etc. In this context, it is seen that phrases containing generic words such as "araba sepeti [car basket]" or "arabam ihale [my car tender]" are registered by the TPI.⁶⁸ In this context, when a trademark is registered for phrases that include generic expressions in the sector, when the undertaking advertises (targets) the words "car" or "my car" in Google searches, its advertisement can appear in the searches "araba sepeti" or "arabam ihale". This is considered as a violation of trademark rights for the undertaking that has acquired the trademark rights, and a warning letter is sent to the undertaking. In fact, although the undertaking advertises with a generic expression, it is faced with a warning letter due to the generic expressions contained in the registered trademark. As it is stated above, the undertaking is faced with a warning letter and a negative match request even though it does not use the competitor's brand name (does not target or advertise). If negative matching is performed, the undertaking's ad impression drops to zero and traffic is lost. Moreover, it is seen that the request of the undertakings is not only for the protection of the trademark right, but also for the negation of the trademark words within the scope of exact match, and it is requested that various variations of these words be negated, and it is requested that these variations also be negated in phrase and broad match types in the correspondence obtained within the scope of the file. Therefore, this practice is considered to be a practice that goes beyond the protection of trademark rights.
- (215) Briefly, it is concluded that the phrase "use" in subparagraph (d) of the third paragraph of Article 7 of the IPL refers to advertising, targeting and creating advertising campaigns. The equivalent in Google Ads of the protection area of the relevant provision is not target advertising and creating advertising campaigns, and the provision should not be interpreted as expanding it and forcing negative matching. It is considered that negative keyword matching is a method offered for implementation when undertakings do not want their ads to be displayed for searches related to different sectors and it concerns their own advertising strategies. When undertakings negatively match brand names mutually, this goes beyond the trademark right protected under the IPL and creates the effect of dividing Google's advertising area according to the keyword searched.

⁶⁸ TPI registered "araba sepeti" with the number 2018 17397 and "arabam ihale" with the number 2022 062623.

- (216) Undertaking's voluntary inclusion of rival brand names in the negative word list in various match types may be evaluated within the framework of the advertising policy implemented by the undertaking. However, as it is seen in Finding 3 in the previous sections of this report, parties to the investigation negated each other's brand names in order to ensure that certain advertisements are displayed according to the queries made by the users and thus eliminated the competition that should have existed among the undertakings for the advertising area and such mutual negation is incompatible with the nature of advertising. As it is stated above, generic words in Google searches trigger advertisements of undertakings operating in the sector. Examples of words that would be considered generic in the market for the online purchase and sale of used cars include "car", "used car", "used car sales", etc. In this context, any brand search on Google that includes the phrase "used car" will trigger advertisements of undertakings operating in the market for the online purchase and sale of used cars. In other words, advertisements of undertakings that are competitors of VAVA CARS will be triggered due to the generic expression "used car" in the search "vavacars used car". The agreement between the parties to the investigation to add the brand names of the rival undertaking to the negative keyword list prevents the display of results originating from generic expressions. Therefore, it is concluded that the bilateral negative keyword agreement between ARABAM.COM and VAVA CARS causes advertisements of undertakings that are specified depending on the match type to appear in searches containing certain words on the Google search engine, and a decrease in the variety of advertisements in the search advertising market. It also reduces the quality of the service the search engine offers to users and prevents users from benefiting from price and service differences between competitors, in this context, the parties to the investigation violated Article 4 of The Act no 4054 through negative keyword agreements on Google text ads.

I.8. Settlement Process and Assessment on the Administrative Fine

- (217) Article 16(3) of the Act no 4054 states *"To those who commit behavior prohibited in Articles 4, 6 and 7 of this Act, an administrative fine shall be imposed up to ten percent of annual gross revenues of undertakings and associations of undertakings or members of such associations to be imposed a penalty, generated by the end of the financial year preceding the decision, or generated by the end of the financial year closest to the date of the decision if it would not be possible to calculate it and which would be determined by the Board."*
- (218) According to Article 4 of the Regulation on Administrative Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition and Abuses of Dominant Position (Fines Regulation), first the base fine will be calculated, then it will be increased and/or reduced by taking into account aggravating and mitigating factors.
- (219) According to Article 5(1) of the said Regulation, which regulates the base fine, while the base fine is being calculated, a rate between two percent and four percent for cartels, and between five per thousand and three percent for other violations, of the annual gross revenues of the undertakings party to the investigation which will be determined by the Board, shall be taken as the basis. The second paragraph of the said Article states that in the determination of the rates written under paragraph one, issues such as the market power of the undertakings or associations of undertakings concerned, and the gravity of the damage which occurred or is likely to occur as a result of the violation will be considered.

- (220) Fifth paragraph of Article 43 of the Act no 4054 includes the following provision: *“After initiating an investigation the Board may, on the request of the parties concerned or on its own initiative, start the settlement procedure, taking into account 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 Board may come to a settlement with the undertakings and associations of undertakings under investigation, which acknowledge the existence and scope of the infringement.”* The sixth paragraph states, *“In this framework, the Board shall grant a definite period of time to the parties under investigation to present a settlement text wherein they accept the existence and scope of the infringement. Notifications made after the expiry of the granted period will not be taken into account. The investigation is concluded with a final decision which includes an establishment of the infringement and the administrative fine imposed.”* and the seventh paragraph states, *“As a result of the settlement procedure, a discount of up to twenty five per cent may be applied to the administrative fine.”*
- (221) Article 5(1) of the Regulation on the Settlement Procedure Applicable in Investigations on Agreements, Concerted Practices and Decisions Restricting Competition and Abuses of Dominant Position stipulates, *“The investigation parties submit their settlement requests to the Authority in writing. The Board may accept or reject this request, in consideration of the points listed in the second paragraph of Article 4, or it may decide to invite the other parties, if any, to the settlement negotiations.”*
- (222) In this context, ARABAM.COM, which is one of the investigation parties, submitted a request for settlement. Upon the said application, the Board decided to initiate settlement negotiations.
- (223) The undertaking was provided with information about the content of the allegations in the file, the nature, scope and duration of the alleged violation, the main documents that form the basis for the allegation of violation on the undertaking that is a party to the settlement, the discount rate that could be applied in the event of the process ending in settlement and the range of administrative fines that could be imposed on the settlement party during the settlement negotiation held with ARABAM.COM officials and representatives, pursuant to the Board decision and the provisions of the Settlement Regulation.
- (224) As a result of the settlement negotiation held in line with ARABAM.COM's statements that the settlement process would continue, the interim decision dated 13.07.2023 and no 23-31/612-MUA was taken that if the investigation process concludes with a settlement;
- *ARABAM.COM's practices related to mutually adding brand names with its competitors in the negative list violated Article 4 of the Act no 4054 by restricting competition in the market for online purchase and sale of used cars through negative keyword agreements for Google text ads,*
 - *Therefore, according to third paragraph of Article 16 of the Act no 4054 and 5(1)(b), 5(2) and 7(1) of the Fines Regulation, on the basis of their gross revenues in 2021, at a rate of (.....)%, ARABAM.COM shall be imposed 3.635.800,05 TL,*
 - *25% reduction shall be made in the fine imposed to the undertaking as a result of the settlement procedure according to Article 43(7) of the Act no 4054 and Article 4(4) of the Settlement Regulation,*

- *Within this framework, as a result of the settlement procedure, on the basis of the annual gross revenues in 2021, finally at a rate of (.....)%, the undertaking shall be imposed 2.726.850,04 TL administrative fines,*
- *A period of 5 days from the notification of this interim decision shall be given to the undertaking in question to send the settlement text to the Authority pursuant to Article 781)(e) of the Settlement Regulation,*
- *If the Settlement text is not sent on time, the Board is not bound with this interim decision.*

- (225) While the fine rate is being determined in the mentioned interim decision, the above-mentioned legislative provisions are taken into consideration and the violation is considered under the category of "other violations" and the starting rate of the base fine is determined as (.....)%.
- (226) According to Article 5(3) of the Fines Regulation, the duration of the violation is taken into account for the determination of the basic fine. The basic fine shall be increased by half for violations, which lasted longer than one year, shorter than five years and by one fold for violations, which lasted longer than five years. The documents indicating that ARABAM.COM distorted competition covers the period between 13.07.2021 and 12.11.2021. In this context, since the violation lasted less than one year, there was no increase in the basic fine due to the duration of the violation.
- (227) In addition, it is concluded that there are no aggravating factors within the scope of Article 6 of the Fines Regulation. Within the framework of Article 7 of the Regulation, the fact that search advertising activities constitute a very low share of annual gross revenues is interpreted in favor of the undertaking and taken into account as a mitigating factor in determining the fine to be applied to ARABAM.COM. The fine is reduced by 60%, and the fine rate to be applied to the undertaking before the settlement reduction is determined as (.....)% within the scope of Article 7 of the Regulation. The issues stated in the aforementioned decision were accepted in the Settlement text prepared and sent by ARABAM.COM based on this decision and it was requested that the investigation on the undertaking be terminated with Settlement.
- (228) ARABAM.COM accepted the issues stated in the aforementioned decision, prepared and sent a settlement text, and requested that the investigation be terminated with settlement.
- (229) Article 8(1) of the Settlement Regulation is as follows:
- a) A clear statement by the settlement party acknowledging the existence and scope of the violation,*
 - b) The maximum rate and amount of the administrative fines that the Board may impose on the settlement party for the violation, and that the party accepts the rate and amount of these fines within the framework of the settlement procedure.*
 - c) A statement that the settlement party was adequately informed about the allegations against itself and sufficient opportunity was given to the party to convey its views and explanations.*
 - ç) A statement that the administrative fines imposed and the matters included in the settlement text would not be taken to court by the settlement party.*

In this context, it is seen that the Settlement text sent by ARABAM.COM contains the elements in the paragraph 1 of Article 8 of the Settlement Regulation.

- (230) Article 43(7) of the Act no 4054 includes the provision *“as a result of the settlement procedure, a discount of up to twenty five per cent may be applied to the administrative fine...”* Article 9 (1) of the Settlement Regulation states *“Within fifteen days following the entry of the settlement text into the Authority records, the investigation is concluded for the relevant party with a Board decision establishing the violation and setting out the administrative fines imposed.”*
- (231) In line with the explanations above, it was concluded that the administrative fine calculated within the scope of the Fines Regulation will be reduced by 25%, the undertaking would be imposed an administrative fine by (.....)% of its gross revenues for 2021 on the grounds that it violated Article 4 of The Act no 4054, and the investigation on the undertaking would be terminated by Settlement within the framework of the settlement text submitted by ARABAM.COM.

J. CONCLUSION

- (232) Within the scope of the investigation conducted per the Competition Board Decision dated 21.07.2022 and numbered 22-33/528-M to determine whether Article 4 of the Act no 4054 was violated, the final settlement text sent by Arabam Com İnternet ve Bilgi Hizmetleri AŞ depending on the interim decision of the Board dated 13.07.2023 and numbered 23-31/612-MUA entered the registry of the Authority on 18.07.2023 with the number 40605. In the settlement text, the undertaking clearly acknowledges the existence and the scope of the violation as well as the rate and amount of the maximum administrative fine provided in the settlement interim decision; it has been decided UNANIMOUSLY that,

1. Arabam Com İnternet ve Bilgi Hizmetleri AŞ's practices related to mutually adding their brand names with its competitors in the negative list violated Article 4 of the Act no 4054 by restricting competition in the market for online purchase and sale of used cars through negative keyword agreements for Google text ads,
2. Therefore, according to Article 16(3) of the Act no 4054 and Article 5(1)(b), 5(2) and 7(1) of the “Regulation on Fines to Apply in cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position”, at a rate of (.....)% of the annual gross revenues in 2021, Arabam Com İnternet ve Bilgi Hizmetleri AŞ shall be imposed 3.635.800,05- TL administrative fines,
3. 25% reduction shall be made in the fines to be imposed to the undertaking as a result of the settlement procedure according to Article 43(7) of the Act no 4054 and Article 4(4) of the Regulation on the Settlement Procedure Applicable in Investigations on Agreements, Concerted Practices and Decisions Restricting Competition and Abuses of Dominant Position,
4. Within this scope, depending on the gross revenues in 2021 calculated by the Competition Board, finally at a rate of (.....)%, 2.726.850,04-TL administrative fines shall be imposed to Arabam Com İnternet ve Bilgi Hizmetleri AŞ,
5. Thus, the investigation conducted per the Competition Board Decision dated 21.07.2022 and numbered 22-33/528-M shall be concluded for Arabam Com İnternet ve Bilgi Hizmetleri AŞ with settlement,

with the decision subject to appeal before Ankara Administrative Courts within 60 days as of the notification of the reasoned decision.