

## COMMUNIQUÉ

**From the Presidency of the Competition Authority:**

### **COMMUNIQUÉ ON AN AMENDMENT TO THE BLOCK EXEMPTION COMMUNIQUÉ ON VERTICAL AGREEMENTS**

**(COMMUNIQUÉ NO: 2007/2)**

**ARTICLE 1-** The paragraphs below have been added such that they follow article 2 paragraph one of the “Block Exemption Communiqué on Vertical Agreements” No. 2002/2, which entered into force by having been published in the Official Gazette dated 14/7/2002 and numbered 24815.

“Exemption secured by this Communiqué shall be applicable in the event that the market share of the provider in the relevant market where he provides goods or services which are the subject of the vertical agreement does not exceed 40 %.

In vertical agreements which contain an obligation for provision to a single purchaser shall be applicable on condition that the market share of the purchaser in the relevant market where he purchases goods and services which are the subject of the vertical agreement does not exceed 40 %.”

**ARTICLE 2-** The following sub-paragraph has been added at the end of article 3 paragraph one of the “Block Exemption Communiqué on Vertical Agreements” No. 2002/2.

“h) Obligation for Provision to a Single Purchaser: It is a direct or an indirect obligation aimed at the fact that the provider sells goods or services which are the subject of the agreement only to one purchaser within Turkey for his own use or for resale.”

**ARTICLE 3-** Article 6 of the “Block Exemption Communiqué on Vertical Agreements” No. 2002/2 has been amended as follows:

**“Revocation of Exemption**

**ARTICLE 6-** In case it is established that an agreement granted an exemption with this Communiqué has effects incompatible with the conditions provided in article 5 of the Act, the Competition Board may, based on article 13 of the Act, revoke the exemption granted to the agreement with this Communiqué. In this situation, the Competition Board shall ask, before taking its final decision, for the written and/or oral opinion of the provider, and the written and/or oral opinion of the purchaser in agreements containing an obligation for provision to a single purchaser. The Competition Board may also ask for the written and/or oral opinions of the other parties to the agreement and of the third persons concerned.

If parallel networks created by vertical limitations of a similar nature cover more than 50 % of the relevant market, the Competition Board may, via a communiqué to be issued by it separately, exclude from the exemption secured by this Communiqué those vertical agreements containing certain limitations in the relevant market.

Communiqués to be issued in accordance with paragraph two may not enter into force unless a minimum of 6 months pass as of the date they are issued.”

**ARTICLE 4-** The article below has been added such that it follows article 6 of the “Block Exemption Communiqué on Vertical Agreements” No. 2002/2.

**“Calculation and Implementation of the Market Share**

**ARTICLE 6/A-** The market share provided for in this Communiqué is calculated by taking as the basis the market sales values of goods or services which are the subject of an agreement, together with the other goods or services which are deemed by the purchaser as substitutable or interchangeable in terms of qualities, prices and intended uses of a product and which are again sold by the provider. If

market sales value data is absent, estimations based on the other reliable market information including sales amounts can be used in the establishment of the market share of the relevant undertaking. With a view to implementing article 2 paragraph three, market purchase values or reliable estimations are used in the calculation of the market share.

In implementation of the market share of 40 % mentioned in this Communiqué, the following rules shall be applied:

- a) Market share is calculated by employing the data of the preceding year.
- b) Market share contains all goods and services provided to affiliated distributors for sale.
- c) If the market share is not more than 40 % at the beginning and later exceeds the threshold such that it shall not be more than 45 %, exemption shall also continue to apply during the next two years following the year the market share threshold has been exceeded for the first time.
- d) If the market share is not more than 40 % at the beginning and later exceeds 45 %, exemption shall also continue to apply during the year following the year the market share threshold has been exceeded for the first time.
- e) Rights secured by sub-paragraphs (c) and (d) may not be joined such that it causes that the duration exceeds two calendar years.”

**ARTICLE 5-** The temporary article below has been added to the “Block Exemption Communiqué on Vertical Agreements” No. 2002/2 such that it follows the Temporary Article 1.

**“TEMPORARY ARTICLE 2-** It is required that those agreements which benefit from the block exemption secured by the Communiqué No. 2002/2 on the date the Communiqué No. 2007/2 enters into force, but which does not fall under the scope provided for in article 2 of the Communiqué No. 2002/2 amended by the

Communiqué No. 2007/2 are made to comply with the terms provided in article 5 of the Act No. 4054 within one year as of the date of entry into force of this Communiqué. Within such duration, the prohibition provided for in article 4 of the Act No. 4054 shall not be applicable to the agreements referred to.”

**ARTICLE 6-** This Communiqué shall enter into force on 1.7.2007.

**ARTICLE 7-** The provisions of this Communiqué shall be executed by the President of the Competition Authority.