

Dear Sister/Brother and Colleague,

April 7, 2023

We are celebrating another month of Ramadan with joy and utter resignation. Praise be to Allah!

As you know, Ramadan is a blessed month, *whose beginning is mercy, its middle forgiveness and its end emancipation from Hell*. This month is not only an exceptional time frame when we focus on fasting and prayers, but it also stands out as an opportunity for reflection.

We went through a lot in the world and in Türkiye in the recent past. Covid 19 pandemic, now subsided to a great extent, was almost like a divine warning in terms of highlighting human helplessness despite the all hype about civilization and technology. Amidst such chaos, we have witnessed, all over the world, tendencies of corruption such as hoarding, excessive pricing and opportunistic behaviors which mostly emerged as an ugly outcome of lack of moral values. While such behavior patterns exacerbated the disruptions in supply chains in the goods and services markets, it also damaged the competitive processes and monopolistic tendencies took precedence. We, as competition authorities, had to address these issues one way or another

The earthquake, which hit on February 6th 2023, proved to be the most tragic in recent memory. It ravaged large swathes of southern Türkiye. Over 50.000 souls perished, almost 120.000 wounded, millions traumatized and 11 cities decimated. 250.000 apartment buildings either collapsed or are heavily damaged. They should be built from scratch. At the time of this writing, relief effort is still on.

In this incident that shook the country to the core, we have once more witnessed that the human weakness and the greed for financial gain played a major role in increasing the severity of the disaster.

A hadith of Prophet Muhammad (PBUH) draws attention to this very point:

*“It is worldly property, sweet and attractive. Whoever takes it in a demure and moderate way, it will prove a blessing for him. However, whoever takes it with avarice and fervour, his blessings will turn to ashes. Ambitious people are like gluttons who eat in an insatiable way. The hand that gives is always superior to the hand that takes.”<sup>1</sup>*

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<sup>1</sup> Buhârî, Zekât, 50.

It is noteworthy to see that, with the hadith, The Prophet (PBUH) almost describes monopolization and the psychology underlying it with the phenomena of greed, avarice, gluttony and cupidity. Because monopolization preaches some sort of “all is mine” doctrine. It is known that halal earnings are frequently emphasized in Islamic teaching. Although it is not directly stated in the hadith that this mode of behaviour is not halal, the legitimacy of such gains is questioned, and believers are warned about individual and social losses, by saying blessings would be lost, albeit in an undertone.

In the similar vein, Allah says in Holy Quran:

*“As for gains granted by Allah to His Messenger from the people of ‘other’ lands, they are for Allah and the Messenger, his close relatives, orphans, the poor, and the needy travellers so that **wealth may not merely circulate among your rich**....”<sup>2</sup>*

Although the verse uses these expressions in the context of sharing the spoils among the different segments of the society, it is possible to subject the issue to a wider reading here. Because, regardless of its source, it is apparent that the verse guides how wealth should be distributed amongst the society fairly. Here, we see a more direct reference to the **concepts of competition law**. Because, the verse clearly opposes the exclusive right of certain persons defined as "rich" to benefit from the wealth, and asks it to be spread to a group of people as large as possible. I believe, it would be appropriate to think the word “**rich**” as a reference to the **dominant undertakings and cartels** in today's competition law terminology.

Further it can be inferred that the verse condemns the use of wealth as a tool of domination. In other words, if the rich is allowed to get more shares by using their influence, they end up getting richer. In competition law terminology, this is clearly the way certain undertakings strengthen their dominant position by restricting and preventing competition.

The statement in the verse that warns against wealth being **circulated<sup>3</sup> only among the rich** is also remarkable. The verse negates this situation. As a matter of fact, in competition law terminology, it corresponds to **infringements in which competition is restricted** or completely disappear due to the **abuse of dominant position** or **the agreements and concerted practices** which are commonplace in **oligopoly markets**. Because, as a result of such practices,

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<sup>2</sup> <https://quran.com/59?startingVerse=7>

<sup>3</sup> In other words, it is always accumulated among them or used and controlled by them.

there is an unfair increase in the market share **at the expense of the competitors**, so the wealth always stays in the hands of a narrow circle.

As seen in above examples, both the hadiths and the verses reveal themselves as texts that open different gates to believers as they reflect on them. Some of these gates might have the potential of guidance for competition law practices.

We ought to keep in mind that Islam first and foremost aims at engineering a society based on moral values. Because, no matter how infallible the state sanctioned rules may seem, they will be ineffective if there are no good and correct behavior patterns underneath them, which restrain human ambitions and desires. As a matter of fact, in another hadith, The Prophet (PBUH) says, *"I have been sent to complete/practice good morals"*.<sup>4</sup>

In addition, it should be noted that in Islamic law, the issue of regulation and supervision of the markets has been studied under the title of "**hisbah**" doctrine which refers to upholding "*community morals*" based on the Quranic injunction to "*enjoin good and forbid wrong*".

As competition law practices and competition culture, which are the basis of free and fair trade, take root in the business world, we have every reason to hope that correct and ethical commercial behaviors will proliferate. In fact, the basic principles laid down by Islam for business life and the aims of the competition rules overlap at this point. It seems that being a part of Islamic tradition, alhamdulillah, is an advantage for us as competition law practitioners and is a wide field waiting to be explored. I look forward to your contributions in this regard.

Finally, I wish you a blessed month of Ramadan and congratulate you for the upcoming eid wholeheartedly.

Ramadan Mubarak!

Biröl Küle

President

Turkish Competition Authority

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<sup>4</sup> Narrated by Ebu Hureyre ( cited by İbn Hanbel, II, 381)