



# 2023 ANNUAL REPORT





# ANNUAL REPORT 2023

## COMPETITION AUTHORITY

Üniversiteler Mahallesi 1597. Cadde No: 9

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<b>FOREWORD BY THE CHAIRMAN .....</b>	<b>4</b>
<b>1. GENERAL INFORMATION .....</b>	<b>14</b>
1.1. Mission and Vision .....	14
1.2. The Importance of the Competition Authority for the Economy of the Country .....	15
1.3. Work Principles .....	18
1.4. Duties, Powers and Responsibilities .....	19
1.5. Information about the Authority .....	20
<b>2. PURPOSES AND PRIORITIES .....</b>	<b>24</b>
2.1. Purposes and Objectives .....	24
2.2. Fundamental Policies and Priorities .....	25
<b>3. ANNUAL ACTIVITIES .....</b>	<b>28</b>
3.1. Examples of Decisions Related to Competition Infringements .....	32
3.2. Exemption/Negative Clearance .....	46
3.2.1 Examples of Negative Clearance/Exemption Decisions .....	48
3.3. Mergers and Acquisitions .....	54
3.3.1. Examples of Decisions Related to Mergers and Acquisitions .....	57
3.4. Statistical Data for the Last Five Years .....	61
3.5. Training and Internship Activities .....	76
3.6. Activities of the Legal Advisor's Office .....	79
3.7. Regulatory Activities .....	81
3.7.1. Regulations That Took Effect in 2023 .....	81
3.7.2. Ongoing Regulation Work .....	81
3.8. Activities of the Economic Analysis and Research Department .....	81
3.8.1. Activities Related to Examinations .....	81
3.8.2. Impact Analysis Report .....	81
3.8.3. 2023 Mergers and Acquisitions Overview Report .....	82
3.8.4. Training for the Professional Staff .....	83
3.9. Activities in the Field of Information Technologies .....	83
3.9.1. E-Government Application Portal .....	83
3.9.2. IT Security .....	84
3.9.3. Activities for Providing IT Infrastructure to Authority Events .....	85
3.10. International Relations Activities .....	85
3.10.1. European Union (EU) .....	85
3.10.2. Multilateral Relations .....	86
3.10.3. Bilateral Relations .....	89
3.10.4. New Periodical of the Turkish Competition Authority titled "Competition Newsletter" .....	90
3.10.5. Other Activities .....	90



3.11. Activities within the Framework of Competition Advocacy and Institutional Relations .....	91
3.11.1. Sector Inquiries .....	91
3.12. Publications .....	93
3.12.1. Competition Journal .....	93
3.13. Strategic Plan Performance Monitoring and Assessment Activities.....	93
3.14. Thursday Conferences .....	94
<b>4. GENERAL ASSESSMENT.....</b>	<b>98</b>
<b>5. EVALUATION OF ORGANIZATIONAL CAPABILITY AND CAPACITY:</b>	
<b>Internal and External Analysis.....</b>	<b>102</b>
5.1. Strengths .....	102
5.2. Improvable Aspects .....	102
5.3. Opportunities.....	102
5.4. Challenges .....	102
<b>6. RECOMMENDATIONS AND PRECAUTIONS .....</b>	<b>104</b>

## FIGURES

Figure 1 : The Contribution of Competition Authorities to Economic Growth.....	16
Figure 2 : Organization Chart.....	21

## TABLES

Table 1 : Purposes and Objectives .....	24
Table 2 : Files Finalized .....	61
Table 3 : Files Finalized under Articles 4 and 6 of the Act.....	62
Table 4 : Horizontal and Vertical Agreements within the Scope Of Article 4 of the Act.....	63
Table 5 : Negative Clearance Files Finalized.....	63
Table 6 : Finalized Exemption Files .....	64
Table 7 : Merger, Acquisition, Joint Venture and Privatization Files Finalized.....	65
Table 8 : Outcomes of the Concluded Merger, Acquisition and Privatization Files.....	66
Table 9 : The Breakdown of Files Examined Ex Officio .....	67
Table 10 : Administrative Fines (TL) .....	68
Table 11 : Files Administrative imposed under Articles 4 and 6 of the Act (TL).....	69
Table 12 : Administrative fines imposed under the Scope of the Files related to Horizontal and Vertical Agreements (TL).....	70
Table 13 : Training and Internship Activities.....	77
Table 14 :List of Actions Brought For and Against the Authority between 1997 and 2023 .....	79
Table 15 : List of Actions Brought Against Board Decisions in 2023.....	80
Table 16 : Distribution of Actions Finalized between 2019 and 2023 According to Outcome....	80
Table 17 : E-Government Application Portal Statistics.....	83
Table 18 : Sector Inquiries Launched/Ongoing in 2023 .....	92
Table 19 : Thursday Conferences .....	94



The year 2023 was very special and meaningful not only for all our citizens but also for our institutions. I would like to emphasize that Turkish Competition Authority has become one of the most important actors of Turkish economy in this period, when we are proudly celebrating the 100th Anniversary of our Republic. It is necessary that our economy should be based on a solid ground, like other values, in order for our Republic to live forever. The Turkish Competition Authority made important contributions to our economy and sustainable development also in 2023.

Sustainability is defined in general as meeting the needs of present without compromising the ability of future generations to meet their needs. Sustainable development has social, environmental and economic aspects. Sustainability requires balanced and efficient management of existing economic resources. Aiming to create efficiencies in resource allocation by protecting competition in the markets, the Authority serves directly for sustainable development objectives with each of its decisions.

To this end, we have been working with a more proactive perspective since the Covid-19 outbreak in 2020. As a reflection of this, the number of competition infringement files finalized in 2023 increased compared to the previous year. The files that were examined ex officio constitute nearly half of those files (48%), which obviously shows that the said approach has been put into practice beyond being merely an objective. Again, the consumer-oriented approach that we have been

following since 2020 prevailed our work in 2023. Consequently, the food industry is one of the three sectors with the highest number of competition infringement examinations in 2023.

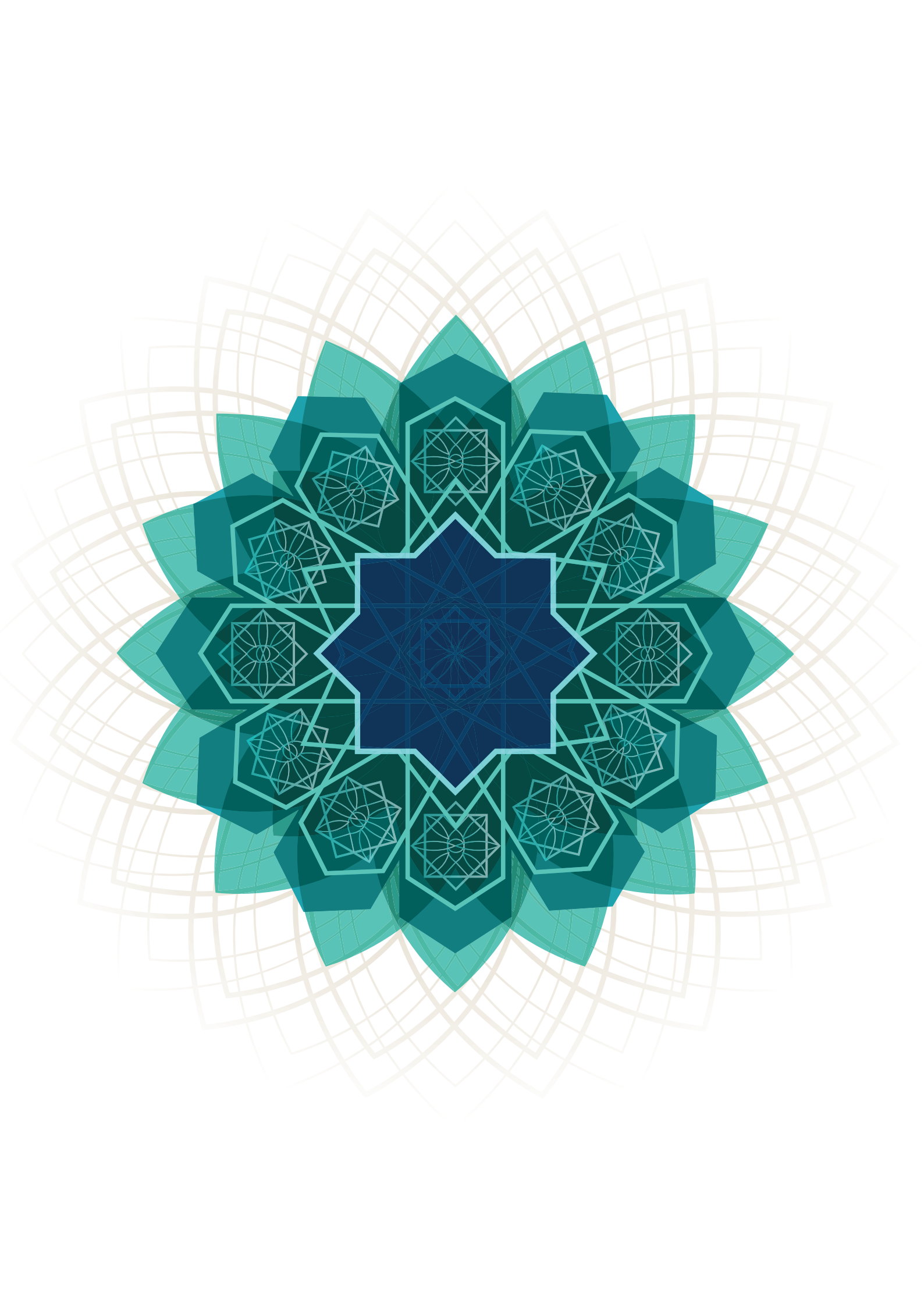
One of the most important sources of economies is labor without question. Wages, which are the return of employees' labor, should find their real value for sustainable development. In addition, labor mobility should be guaranteed for efficient allocation of resources, which is also necessary for sustainable development. Competition established in labor markets will be reflected to final consumer and thus to the society in the end through better quality in goods and services.

2023 was a very important year with respect to our decisions concerning labor markets. Our labor investigation decision, which was finalized in 2023, defines no-poaching agreements as cartel. This definition is important since it indicates that the Authority will not give any compromise on no-poaching agreements. The Authority continues to work in order to provide the society with all the benefits expected from competition including efficient allocation of the resources in the relevant market by establishing competition in the labor market as well, like in other markets.

Unfortunately, we experienced a devastating earthquake disaster in 2023. As a reflection of both our proactive approach and our awareness to serve for the sustainability of our country's economy, a delegation composed of the Board members visited the affected region shortly after the earthquake and met the representatives of the business world in the area. Since new buildings will be constructed during the post-earthquake period, it was considered necessary to scrutinize cement and ready-mixed concrete markets in the said period; thus, an investigation was opened about ten cement/ready-mixed concrete manufacturers operating in Hatay and Malatya in 2023 in order to determine whether they violated the Act by means of price fixing and allocation of regions and customers. In addition, the Board initiated a sector inquiry to ensure that necessary steps can be taken by identifying possible competitive problems that may delay both social and economic recovery process in the earthquake area quickly and by coordinating with other relevant public institutions and organizations when necessary.

In this regard, the year 2023 will go down as a period, during which we, as the Competition Authority, are proud of making important contributions to the efficient use of our country's resources and increasing efficiency. With my sincere hopes that the year 2024 will be more productive than 2023, I respectfully submit our Annual Report, where you can find the details of our activities in 2023, for the information of the public.

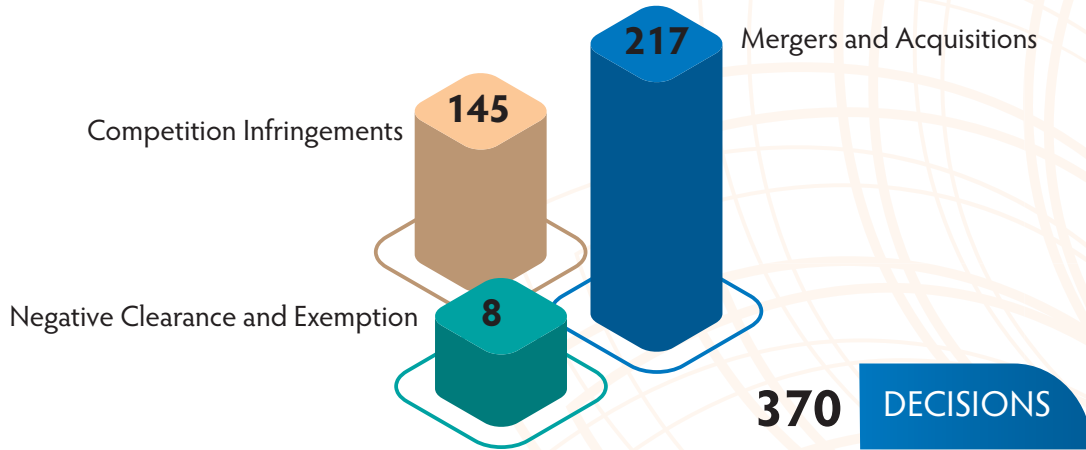
**Birol KÜLE**  
**Chairman of the Competition Board**



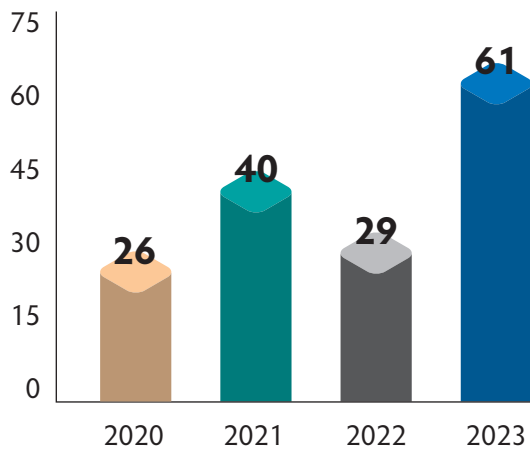
# 2023 IN NUMBERS



## Files Concluded



## Investigations that are Finalized Completely



## Breakdown of the Investigations Concluded According to Sectors (First five sectors)



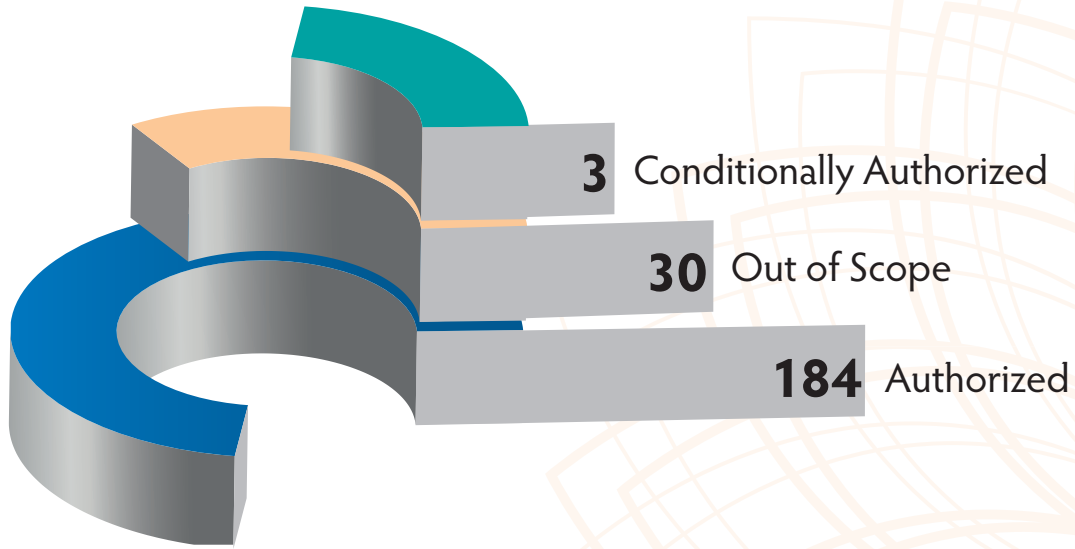
**A two-fold increase** in the number of investigations and on-site inspections in 2023, compared to the previous year



**"Effective on-site inspection" + "increase in human resources capacity"**

Year	The Number of Investigations Completed	The Number of Preliminary Inquiries	The Number of On-site Inspection Assignments
2021	44	29	653
2022	54	24	831
2023	61	28	1642

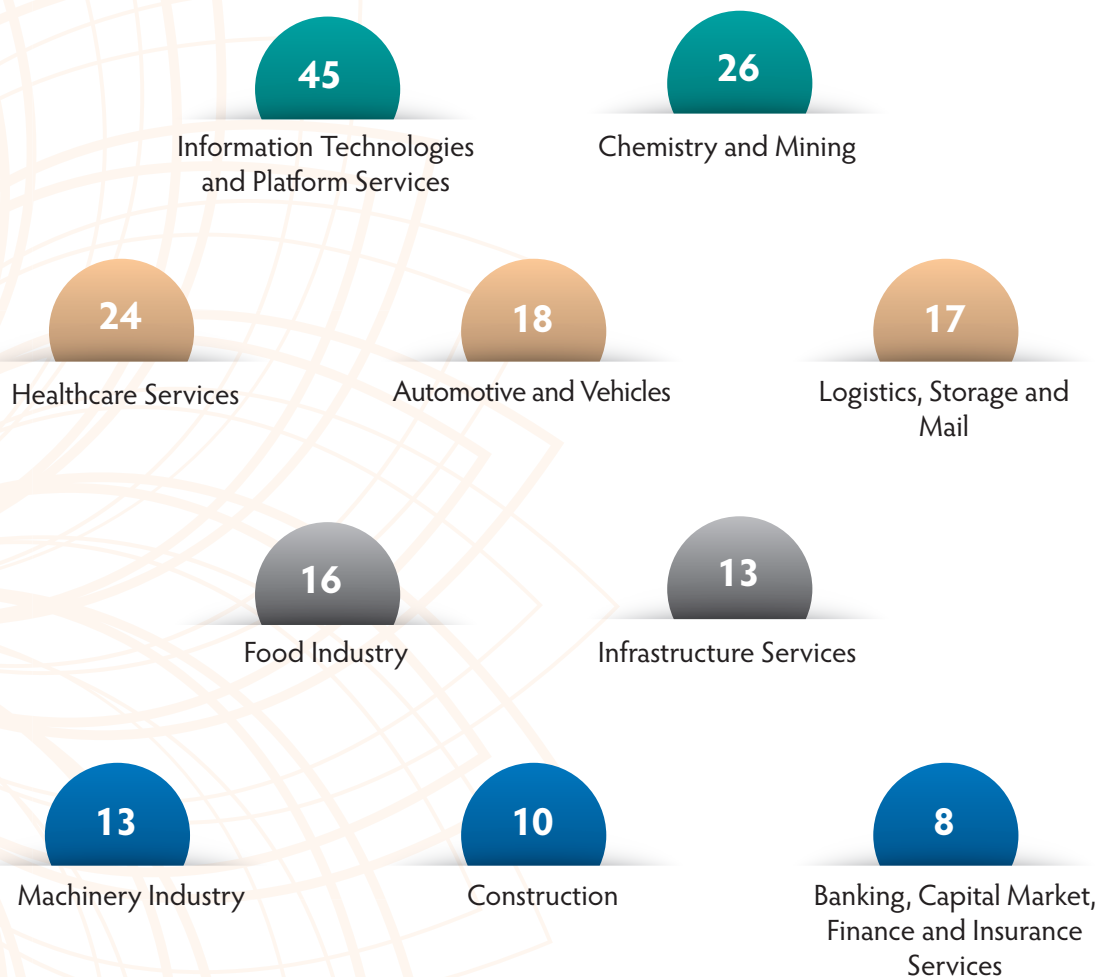
## Mergers Acquisitions

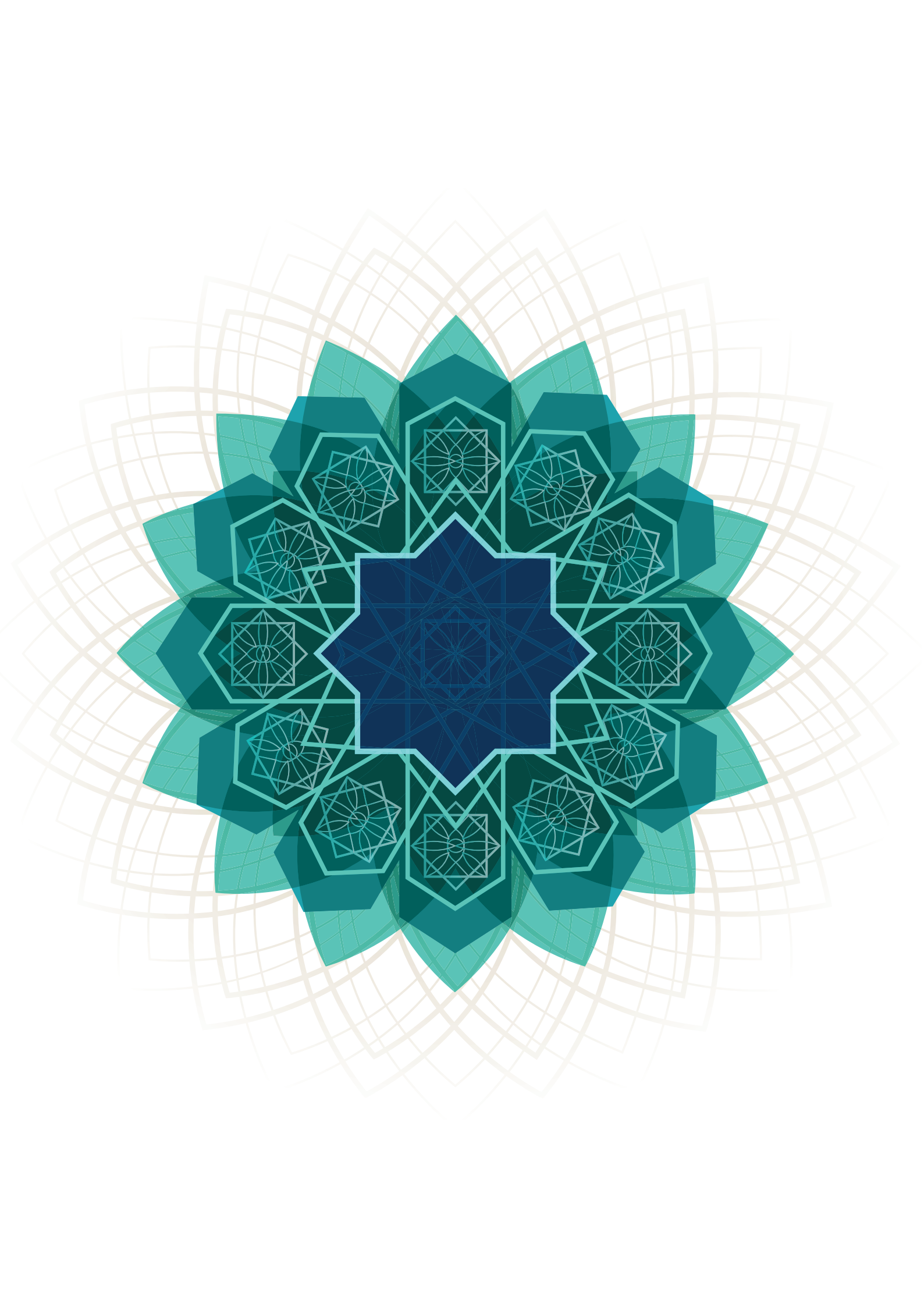


**217** TRANSACTIONS NOTIFIED

## Sectors

### Breakdown of Merger and Acquisition Decisions According to Sectors (First ten sectors)







# GENERAL INFORMATION



## 1. GENERAL INFORMATION

Article 167 of the Constitution of the Republic of Turkey places a duty and responsibility on the state to take “measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets”, “prevent the formation, in practice or by agreement, of monopolies and cartels in the markets.” Depending on this Constitutional basis, the Act no 4054 on the Protection of Competition was put into effect on 13.12.1994 to serve firstly the growth of consumer welfare and public welfare by establishing, protecting and improving competitive market based on economic efficiency. The Competition Authority started to work on 05.11.1997 after completing its organization within the framework of the Act.

It is necessary to review competition law legislation constantly taking into account the dynamism of economic life, knowledge and experience gained in enforcement as well as the developments in the world and especially in the European Union (EU). Within this framework, amendments have been made to the Act No 4054 in 2003, 2004, 2005, 2006, 2008, 2011, 2012, 2018 and 2020 within 29 years as of its enactment. In addition the Competition Board (the Board) has issued many secondary regulations related to the implementation of the Act and amended existing secondary regulations.

### 1.1. Mission and Vision

The mission of the Authority is to prevent monopolization and cartelization, increase consumer welfare, contribute to the well functioning of market mechanism, contribute to the improvement of international competition power and ensure that the investment environment functions in a healthy way by decreasing entry barriers.

In line with this mission, the following objectives are set:

- Monitoring, regulating and supervising markets to prevent agreements restricting competition, abuse of dominant position as well as mergers and acquisitions that will significantly decrease competition,
- Promoting competition culture and making necessary disposals to ensure that public decisions and actions are made according to competitive understanding,
- Making researches related to competition law, economy and policy, developing policies and contributing to the development of macroeconomic policies with respect to competition law.

The Authority is responsible for carrying out activities related to regulation, supervision, competition advocacy and policy making in order to achieve these objectives.

The future vision of the Authority is to be an institution which supports sustainable growth and development, takes innovation, variety, productivity and quality to the highest level; promotes widespread competition culture; establishes a well functioning competitive environment, makes intellectual, economic and administrative contributions and is effective in international platforms.

## 1.2. The Importance of the Competition Authority for the Economy of the Country

Competition has a strategic and central position with respect to the effective functioning of market economy. By contributing to the prevention of cartelization and monopolization and to reduction of barriers to entry, competition authorities ensure that market mechanism functions in a healthy way. Competition authorities play a vital role in sustainable growth, healthy functioning of investment environment and maximizing consumer welfare as well as efficiency and increasing competitive power. Moreover, the role of competition authorities in mitigating negative effects created by unexpected supply and demand shocks is undeniable. For instance, during Covid-19 period, financial policies implemented by governments to increase total demand produced more efficient results in economies with competitive markets. Competition authorities' advocacy role is important in minimizing the negative effects of bail out packages on the market structure.

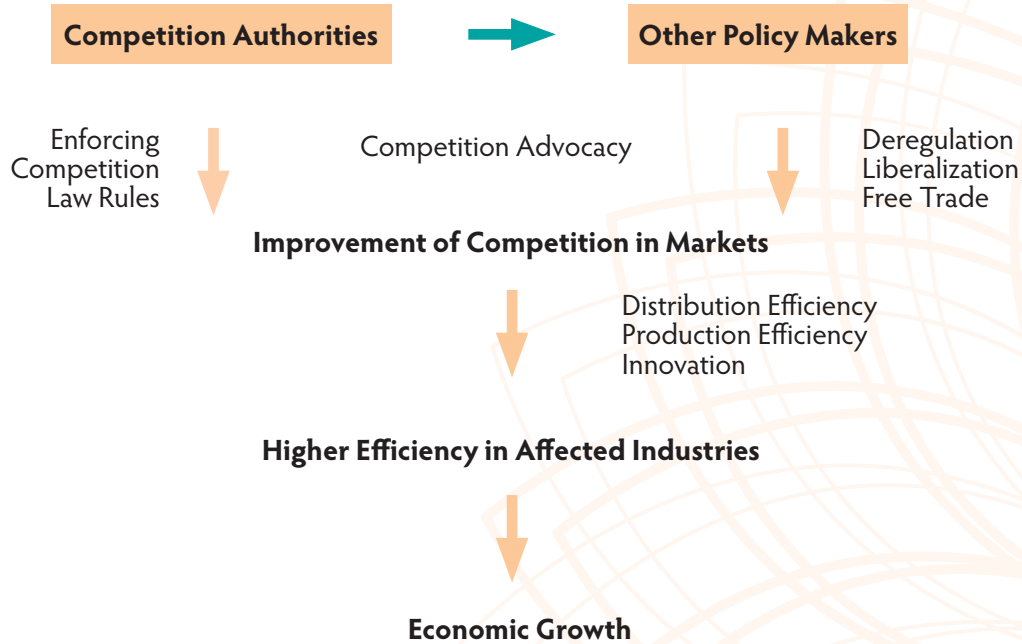
### Economic Growth

Competition authorities contribute to the development of competition in markets by means of their fundamental duty, which is enforcing competition law rules and eliminating barriers in front of liberal market and economic freedom through competition advocacy. In this way, those authorities ensure that markets serve for consumer welfare by preventing cartelization and monopolization. Firms prioritize meeting consumer demand more efficiently at lower prices and higher quality in the markets that are under competition law's shield. In such environment, R&D, innovation and innovative products are important parameters of the race between firms. As a result, efficiency is higher in markets. In turn, higher efficiency contributes to national competitive power, economic growth and thus public welfare.

Competition Authorities take an important role also by means of complementing other economic policies with their function of supervising markets. Indeed, markets free from dominating cartels and monopolies are essential to ensure that the decision of the government related to monetary and fiscal policies will produce efficient results and the national economy grows in a healthy way. Figure 1 summarizes the contribution of competition authorities to economic growth<sup>1</sup>

<sup>1</sup> OECD (2014), "Factsheet on How Competition Policy Effects Micro-economic Outcomes", p. 2.

**Figure 1: The Contribution of Competition Authorities to Economic Growth**



## Indirect Contribution to Price Stability

Competition authorities also contribute to price stability indirectly by means of improving competition in markets. Those contributions may be categorized into two: First, protecting the competition in markets helps preventing the distortion of price stability by ensuring lower prices in medium and long term. Preventing cartels and similar structures as well as dominant undertakings from distorting competition in the market and controlling mergers and acquisitions that will lead to monopolies can be considered in this category. Second category is the effects, the outcomes of which can be observed in a short time by means of implementing the competition law rules directly. For instance, competition authorities indirectly contribute to price stability by means of detecting and terminating prohibited practices, such as artificial price increases via agreements between competitors, obstruction of new entries and prevention of lower prices through resale price maintenance.

### **Increase in Foreign Investment**

One of the factors that investors take into account is the existence of a competition authority which applies competition law rules effectively because this assures investors that public institutions in the country in question provide all undertakings in the market with equal opportunities and do not favor national undertakings, which indirectly contributes to foreign investment.

### **Indirect Contribution to Fair Income Distribution**

It is accepted that anticompetitive practices have negative effects on income distribution and markets where competition rules are not functioning efficiently may lead to inequalities in allocation of welfare. Anticompetitive practices affect many people; however, those who benefit from a cartel or a monopoly are generally a small group. It is the low-income section of the society who is affected the most by higher prices and lower quality products caused by the distortion of competition. Thus, prevention of anticompetitive practices contributes indirectly to fairer income distribution especially through hindering unfair welfare transfers.

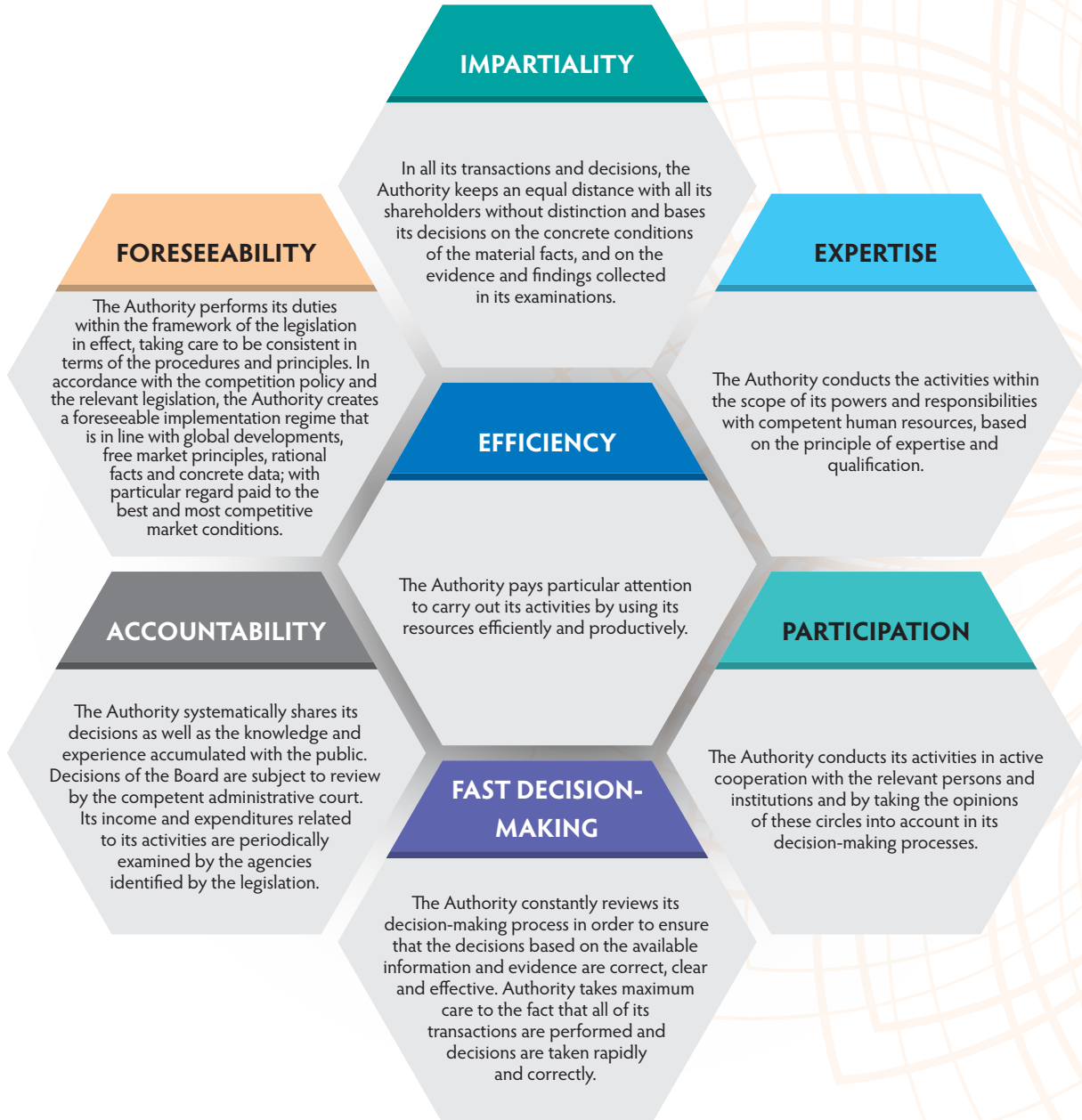
### **Increase in International Competition Power**

As a result of economic and technological developments, especially in the last century, production facilities have improved, communication and transport vehicles have advanced and become cheaper; consequently, trade activities have gone beyond national borders. Therefore, undertakings compete not only with undertakings within the borders of a country but also with those who carry out activities in international markets. In line with this, international competition has gained importance for undertakings and countries. It is vital to have an efficient and sound competitive market to promote international competitiveness. Competitive markets motivate undertakings to work efficiently and productively; thus, increase undertakings' potential to compete with international rivals and contribute to the country's international competitive power.



## 1.3. Work Principles

The Authority takes into account certain fundamental values while fulfilling its duties according to its founding purposes and pays attention to reflect those to its work.



#### 1.4. Duties, Powers and Responsibilities

The purpose of the Act no 4054 is to prevent agreements, decisions and practices preventing, distorting or restricting competition in markets for goods and services, and the abuse of dominance by the undertakings dominant in the market, and to ensure the protection of competition by performing the necessary regulations and supervisions to this end. It is possible to categorize the provisions laid down in the Act regarding this purpose under three main areas:

- Provisions related to agreements, concerted practices and decisions preventing, distorting or restricting competition between undertakings that operate in markets for goods and services within the borders of the Republic of Türkiye or affect those markets,
- Provisions related to abuse of dominance by undertakings dominant in markets,
- Provisions related to any legal transaction or conduct that constitutes a merger or an acquisition to create a dominant position or strengthen an existing dominant position which would result in significant lessening of competition.

The abovementioned provisions constitute the basic framework of the Act no 4054. There is neither discrimination between public enterprises and private enterprises in terms of the implementation of the Act nor distinction among sectors in the Act. Thus, anticompetitive conduct by all undertakings and associations of undertakings in any market for goods and services fall under the scope of the Act.

According to article 20 of the Act no 4054, the Authority was founded in order to ensure the formation and development of markets for goods and services in a free and sound competitive environment, to observe the implementation of this Act and to fulfill the duties assigned to it by the Act. Within this framework, the main duty of the Authority is to prevent threats to the competitive process in markets for goods and services by using its powers granted by the Act.

Another duty, competitive advocacy, is very important in terms of recovering market failures especially stemming from regulations, actions or transactions especially by other public institutions. The Act no 4054 gives the power and duty to opine, directly or upon the request of the Ministry of Trade, concerning the amendments to be made to the legislation with regard to the competition law, to monitor legislations, practices, policies and measures of the other countries, concerning agreements and decisions limiting competition. Contributing to the formation and sound implementation of the competition policy, which consists of competition law legislation and other relevant legislation, throughout the country forms a significant part of the Board's work.

Competition advocacy is not limited to the duties listed in the Act no 4054 and has a broader perspective, taking into account the basic philosophy underlying the Act. In this sense, another function of the Authority is to spread competition culture to different layers of the society, mainly to other public institutions. Since it is not possible to implement the vision on a healthy ground unless other public institutions are conscious about the benefits of a competitive market structure.

### 1.5. Information about the Authority

The Authority has public legal personality, administrative and financial autonomy and is independent in fulfilling its duties. **No organ, authority and person may give commands and orders to influence the final decision of the Authority.** The organization of the Authority consists of the Competition Board, the Presidency and Service Units.

The Board is composed of a total of 7 members assigned by the President, one being the Chairman and the other being the Deputy Chairman.

The Presidency consists of the Chairman, the Deputy Chairman and Vice Presidents of the Authority.

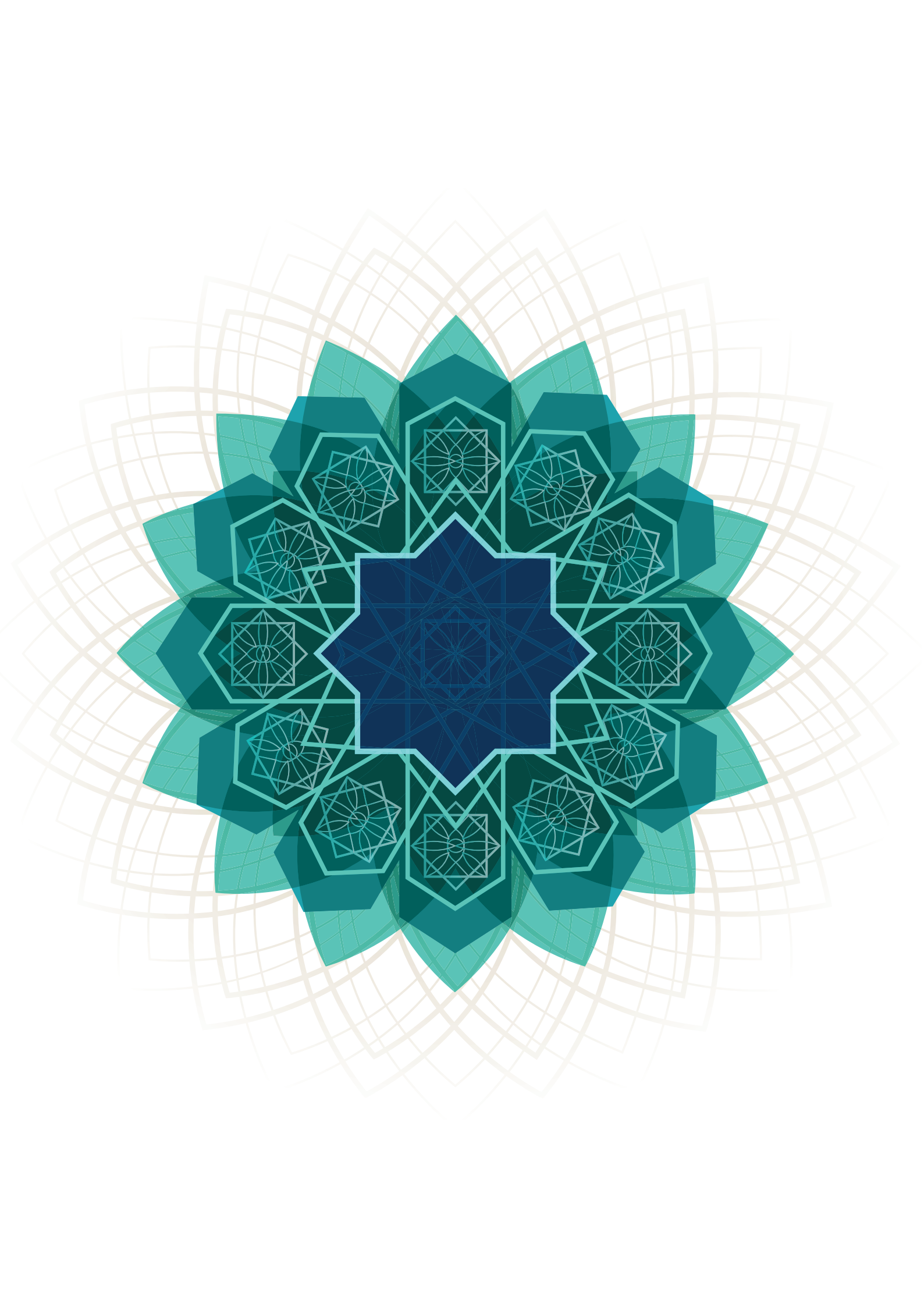
The Chairman of the Board is the highest supervisor of the Authority and is responsible for general management and representation. This responsibility covers arrangement, supervision, evaluation and announcement to public, when necessary, of the Authority's work in a general framework.

Service units consist of main service units that are organized as departments, consultancy units and auxiliary service units.

The headquarters of the Authority is in Ankara and there is a regional representative office in Istanbul. The property, owned by the Authority, located in the address "Üniversiteler Mahallesi 1597. Cadde No:9 Bilkent/Çankaya ANKARA" is used as the headquarters. Istanbul Regional Representative Office's address is "Prime İstanbul Yenibosna Merkez Mah. 1. Asena Sk. No:15 E Blok Kat: 12 Bahçelievler/ İSTANBUL".

**Figure 2: Organization Chart**







# PURPOSES AND PRIORITIES

## 2. PURPOSES AND PRIORITIES

### 2.1. Purposes and Objectives

The main purpose of the Act no 4054 is to prevent agreements, decisions and practices preventing, distorting or restricting competition in markets for goods and services, and the abuse of dominance by the undertakings dominant in the market, and to ensure the protection of competition by performing the necessary regulations and supervisions to this end.

In order to reach those purposes specified by the Act, the Authority carries out regulation and supervision activities under the scope of competition law enforcement; competition advocacy activities and policy-making activities.

The Authority prepared the Strategic Plan related to 2019-2023 period in 2019. The Strategic Plan includes the purposes related to those activities and objectives to reach those purposes. The table below shows those purposes and objectives according to each field of activity.

**Table 1: Purposes and Objectives**

Competition Law Enforcement	
Purpose 1	To ensure that competition law is applied effectively
Purpose 1.1	To take initiatives to amend the Act for necessary legal powers and to develop the secondary legislation
Purpose 1.2	To develop new approaches to conclude monitoring and enforcement processes more quickly and efficiently
Purpose 1.3	To make methods of collecting evidence, especially on-site inspections, more efficient
Competition Advocacy	
Purpose 2	To ensure that the Authority and competition law are recognized and internalized at individual, institutional and sectoral levels and this awareness is reflected in shareholders' behavior
Purpose 2.1	To help institutions which determine or affect economic policies develop a competitive perspective
Purpose 2.2	To increase the recognition level among shareholders
Policy Making	
Purpose 3	To detect markets with failures and/or high potential for infringement and to develop competition law policies with respect to those markets
Purpose 3.1	To develop more proactive approaches for enforcement
Purpose 3.2	To focus on increasing consumer welfare
Purpose 4	To be an active competition authority in international arena
Purpose 4.1	To develop international relationships in the area of competition law
Purpose 5	To produce and spread knowledge about competition law and policy and transfer this knowledge into benefits
Purpose 5.1	To make academic and semi-academic studies related to competition law and policy
Institutional Capacity	
Purpose 6	To manage human resources efficiently and improve their productivity
Purpose 6.1	To increase the quality and quantity of training programs for the personnel
Purpose 6.2	To ensure efficient communication and coordination among the personnel
Purpose 7	To increase institutional performance
Purpose 7.1	To improve the competency of the professional personnel
Purpose 7.2	To increase capacity with respect to technological development
Purpose 7.3	To systematize and use professional knowledge more effectively

## 2.2. Fundamental Policies and Priorities

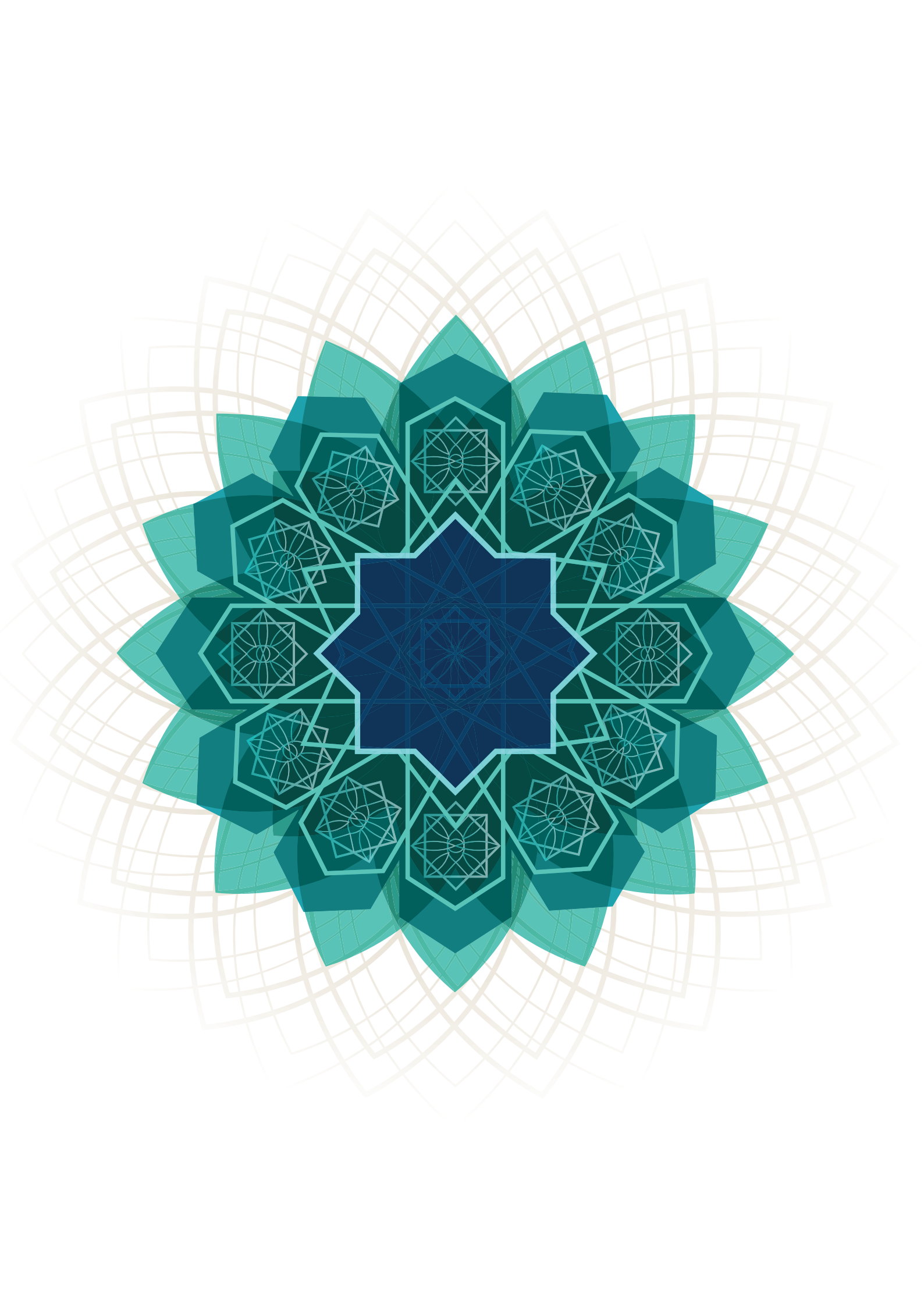
The Authority has completed its 26th year in 2023 and made important contributions to the improvements in competition law and policy enforcement.

In the Strategic Plan for 2019-2023, the Authority sets certain policies and priorities to make competition law and policy in our country more effective, dynamic and efficient, taking into account also those observations.

The priorities of the Authority can be summarized as follows:

- Taking initiatives to make amendments to the Act no 4054 for enforcing competition law more effectively where necessary and to make the necessary amendments to the secondary legislation in this sense<sup>2</sup>,
- Developing evidence collecting mechanisms in order to fight against competition infringements more effectively,
- Monitoring closely the markets which have changed with digitalization in order to develop efficient competition law and policies with respect to those,
- Carrying out activities in order to develop competition awareness in public institutions and authorities and competition culture in all segments of the society,
- Developing international relations in the area of competition law,
- Increasing institutional capacity and performance.

<sup>2</sup> "The Act on the amendments to the Act no 4054 on the Protection of Competition", which entered into force after it was published in the Official Gazette dated 24.06.2020 and numbered 31165, brought significant amendments.



# ANNUAL ACTIVITIES

### 3. ANNUAL ACTIVITIES

Article 4 of the Act no 4054 prohibits agreements and concerted practices between undertakings, and decisions of associations of undertakings which have as their object or effect or likely effect the restriction of competition. With respect to the implementation of this article, it is not necessary that agreements or decisions be put into practice. Transactions that do not create effects on the market can be considered under the scope of article 4 regarding their objectives and possible effects.

This article concerns practices with more than one party. Decisions of associations of undertakings reflect the willpowers and interests of their members, so they are thought to be taken by more than one undertaking and evaluated according to the same article. In addition to the agreements and decisions, concerted practices are under the scope of article 4. Concerted practices can be defined as direct or indirect relations that enable coordination or practical cooperation instead of undertakings' independent conduct. If the presumption of concerted practice laid down in the third paragraph of that article is valid, the burden of proof that such conduct does not exist is on the undertakings.

It is possible to group anticompetitive agreements into two categories: horizontal and vertical. While horizontal agreements cover agreements that are made by undertakings at the same level of the market, vertical agreements are those to which undertakings at different levels of the market such as provider and buyer are parties.

In competition law, it is generally accepted that horizontal agreements that restrict competition among brands have more negative effects on competition than vertical agreements in the same brand.

Article 6 prohibits abuse by one or more undertakings of their dominant position. It should be noted that being in a dominant position or transforming to a dominant position is not prohibited by article 6. What is prohibited is abuse of dominance.

It is important to determine whether an undertaking holds a dominant position with respect to the implementation of this article. At this stage, market share, barriers to entry, vertical integrity, powers of other undertakings in the market and some other factors are taken into account. Besides, whether the undertaking acts independently of its competitors and customers is questioned.

The Act lists some examples of practices restrictive of competition in article 4 and abuse of dominance cases in article 6. However, actions or practices that might fall under the scope of the Act are not limited to the examples given in both articles.



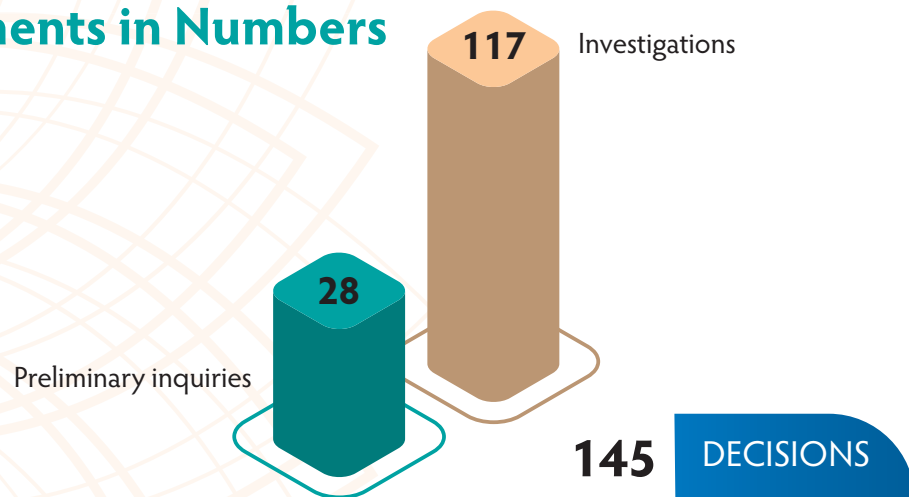
The legislations, which was published in 2023, are

- The Communiqué on the Increase of the Lower Threshold for Administrative Fines Specified in Paragraph 1, Article 16 of the Act No 4054 on the Protection of Competition, to be Valid until 31/12/2023
- Regulation on Active Cooperation for Detecting Cartels

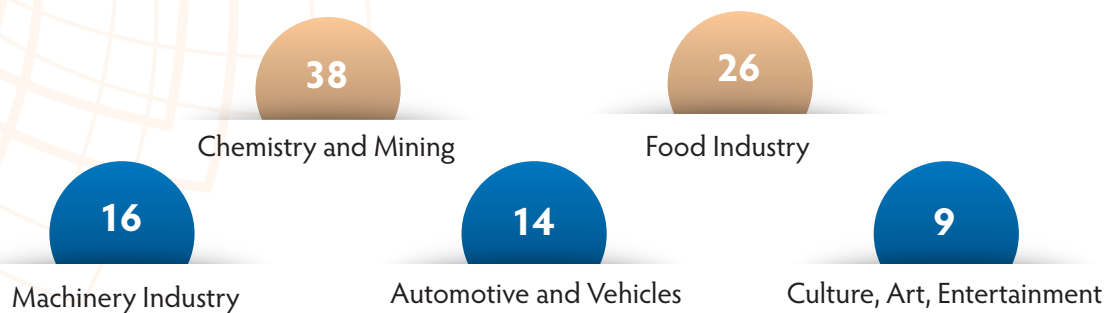
Ongoing legislative work:

- The Draft Directive on the Procedures and Principles for On-site Inspections

## Competition Infringements in Numbers



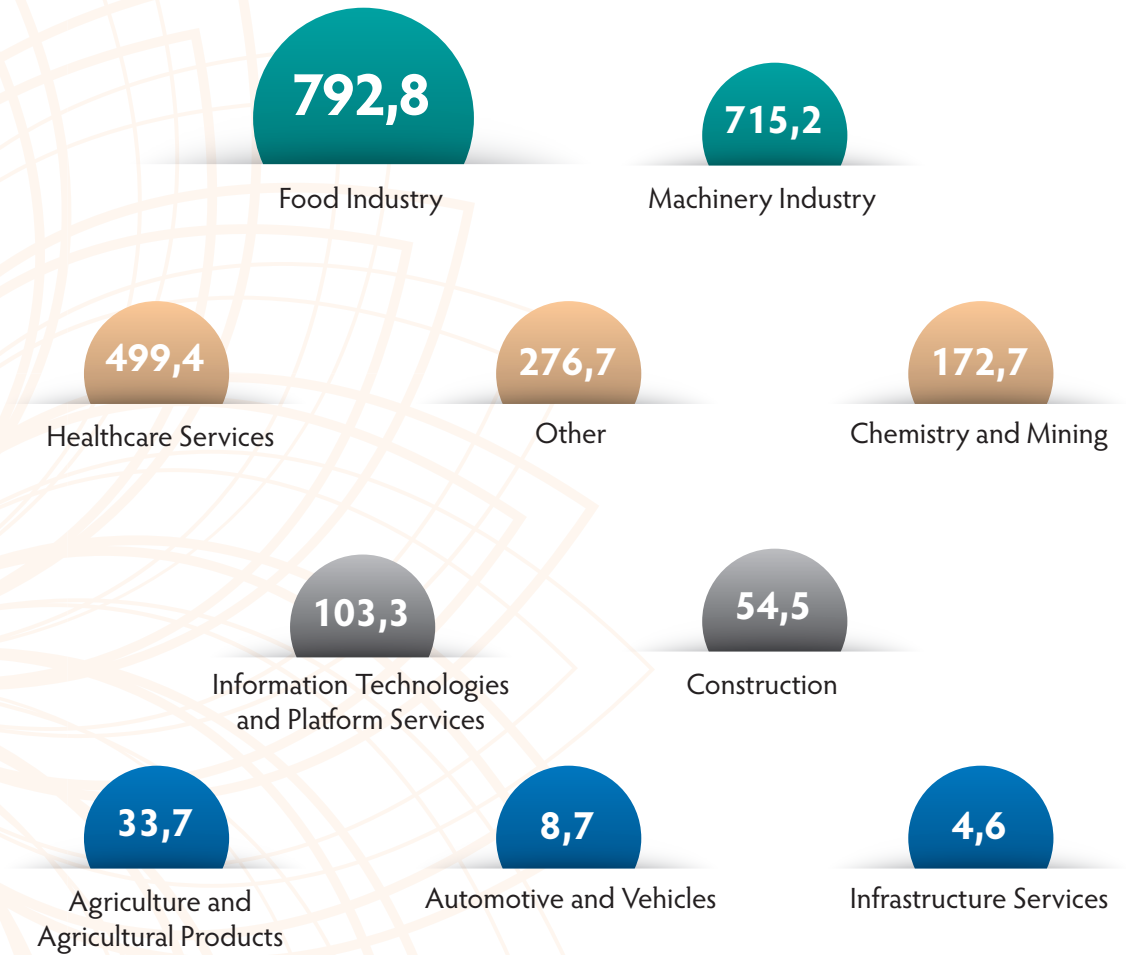
## Breakdown of the Decisions According to Sectors (First five sectors)



In 2023, out of 145 decisions taken concerning competition infringements, 28 decisions were taken as a result of preliminary inquiries and 117 decisions were taken as a result of investigations. In terms of those decisions taken in 2023 concerning competition infringements, 103 of those are related to five sectors and 42 are related to other 12 sectors as shown in the chart above. The decisions concerning the first five sectors that have been subject to decisions the most constitute 71% of the total competition infringement decisions in 2023. While the number of investigations finalized in 2021 was 44, this number was 54 in 2022 and 61 in 2023. The number of assignments in on-site inspections in 2021 was 653, whereas the number of assignments was 831 in 2022 and 1642 in 2023. The number of on-site inspections in 2023 has increased nearly by two fold compared to 2022. Considering the increase in the number of investigations together with the increase in the number of on-site inspections, it can be said that the effectiveness of on-site inspections and preliminary inquiry processes has improved equally. Capacity increase in the Authority's IT and human resources as well as efficient and use of commitment and settlement procedures are important factors in the said improvement in efficiency.

Considering the outcomes of 145 files regarding competition infringement decisions, claims were rejected in 25 out of 28 preliminary inquiry files; out of 117 investigation files, administrative fines were imposed in 12 files; 28 files were concluded with commitments whereas 68 files were finalized with settlement. Administrative fines were imposed in 13 sectors according to Article 16(3) of the Act. The chart below shows the breakdown of the administrative fines given in the investigations concluded in 2023 according to sectors. According to the chart, food industry with 792.8 million TL administrative fines, machinery industry with 715.2 million TL administrative fines, and healthcare sector with 499.4 million TL administrative fines are leading. The administrative fines imposed in those three sectors correspond to 75% of the total administrative fines given substantially with respect to competition infringements in 2023.

**Breakdown of administrative fines imposed to competition infringements in investigations concluded in 2023 according to sectors (Million TL) (first ten sectors)**



### 3.1. Examples of Decisions Related to Competition Infringements

#### Trendyol Decision

(Board Decision dated 26.07.2023 and numbered 23-33/633-213)



The file examined the claim that DSM Grup Danışmanlık İletişim ve Satış Ticaret AŞ (Trendyol) violated article 6 of the Act no 4054 by means of abusing its dominant position in multi-category e-marketplace market. The file looked into the following issues about Trendyol: predatory pricing, exclusivity, unfair contract conditions, using rivals' data, self-

favoring through intervening in the algorithm and lastly discrimination between sellers in the marketplace by intervening in the algorithm.

After Trendyol submitted commitments in respect of allowing the sellers in Trendyol to operate also in competing platforms and not imposing unfair business conditions in its platform, where Trendyol itself is a seller, the investigation process ended with regard to i) predatory pricing, ii) exclusivity, iii) unfair contract conditions since the competitive problems about the listed issues could be solved. However, Trendyol's commitments about i) self-favoring by using competitors' data and intervening in the algorithm, ii) discrimination between sellers in the marketplace by intervening in the algorithm were deemed insufficient and the investigation process on those issues continued.

Having evaluated the claims about Trendyol in light of the information and documents obtained during the investigation process, the Board took the decision dated 26.07.2023 and numbered 23-33/633-213 that

- Trendyol is dominant in multi-category e-marketplace market,
- Trendyol gained unfair advantages for its own retail activities by intervening in the algorithm and using the data of third party sellers in the market place, those practices complicated its rivals' activities and violated article 6 of the Act no 4054; consequently, Trendyol should be imposed administrative fines according to article 16 of the Act no 4054.

## Sahibinden Decision

(Board Decision dated 30.09.2021 and numbered 21-46/655-325)

**sahibinden.com**

The file examined the claim that Sahibinden Bilgi Teknolojileri Pazarlama ve Ticaret AŞ (Sahibinden) abused its dominant position by means of preventing data portability and in other ways with respect to selling/renting real estate and vehicles.

The relevant geographic market was "Türkiye" whereas the relevant product markets were "online platform services related to corporate members' real estate selling/renting activities" and "online platform services related to corporate members' vehicle selling activities". In light of previous Board decisions and the market analysis made, it was concluded that Sahibinden was dominant in the said markets.

Depending on the information and documents obtained, it was found that Sahibinden made it difficult for corporate members to use more than one platform by preventing data portability and applied actual/contractual exclusivity and complicated its rivals' activities.

As a result of the investigation, the Board decided that Sahibinden abused its dominant position under article 6 of the Act and therefore administrative fines shall be imposed. In addition the following obligations were imposed on Sahibinden in order to terminate the violation and establish efficient competition in the market:

- a) To remake the contracts with its corporate members in a way to leave out the violating provisions,
- b) To establish the infrastructure, which will enable corporate members to carry efficiently the real estate and vehicle ad data they give to Sahibinden platform to competing platforms and to keep the data in those ads updated, free of charge,
- c) In case corporate members who are members of competing platforms make a request to carry real estate and vehicle ad data to Sahibinden platform and keep those updated and competing platforms accept such request, to establish the infrastructure that will enable corporate members to carry and update their real estate and vehicle ad data as soon as reasonably possible, without delay, free of charge and to meet competing platforms' demands continuously and efficiently.

## Sahibinden Decision II

(Board Decision dated 13.07.2023 and numbered 23-31/604-204)

The logo for Sahibinden.com, featuring the text "sahibinden.com" in a bold, black, sans-serif font on a yellow rectangular background.

The file examined the claim that Sahibinden abused its dominant position in the market for online platform services for real estate and vehicle selling/renting by means of excessive pricing.

The relevant product markets were defined as "online platform services related to corporate members' activities for selling/renting real estate", "online platform services related to corporate members' activities for selling/renting vehicle", "the market for online platform services related to individual members' activities for selling/renting real estate" and "the market for online platform services related to individual members' activities for selling vehicles"; whereas the relevant geographical market was defined as Türkiye". As a result of the analysis, which took into account Sahibinden's and its competitors' market shares, other market data, entry barriers and buyers' bargaining power, it was found that Sahibinden was dominant in the four defined relevant product markets.

The investigation used Economic Evaluation Test (EET) approach for excessive pricing claims. At the first stage of EET, the price and the cost of the product/service in question were compared. At the second stage, the price examined was compared to its own prices or the prices of the competing product/service prices. In addition, an independent survey firm made a survey with five different Sahibinden user groups.

As a result of all those evaluations, with its decision dated 13.07.2023 and numbered 23-31/604-204, the Board concluded that Sahibinden did not violate article 6 of the Act no 4054 between 2020 and 2022 in the abovementioned markets by means of excessive pricing; thus, it was not necessary to impose administrative fines to Sahibinden.

## Storytel Decision

(Board Decision dated 30.11.2023 and numbered 23-55/1076-380)



The investigation examined the claim that Storytel Türkiye Yayıncılık Hizmetleri AŞ (Storytel) abused its dominant position by means of preventing the entry of competitors to the audiobook market with the long-term exclusivity agreements that it made with publishing houses/right owners.

The relevant product market was "online audiobook streaming services" market whereas the relevant geographic market was defined as "Türkiye". An examination was made about the position of the undertakings

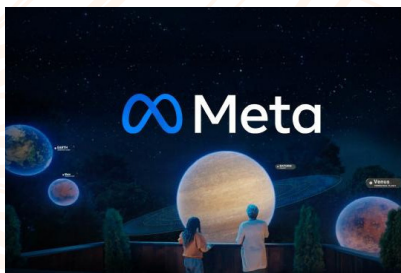


in the relevant market and about whether Storytel was dominant. Undertakings' revenues, the number of paid users, the number of contracted publishing houses/right owners, the number of audiobooks sold, buyer power, network effects in the market, entry barriers are taken into account together with digital platform economies' characteristics in the evaluation. As a result of all those evaluations, Storytel was found to be dominant.

The investigation about Storytel was terminated after the commitments submitted by Storytel were accepted with the Competition Board decision dated 30.11.2023 and numbered 23-55/1076-380. According to the commitments accepted by the Competition Board, Storytel shall remove gradually the exclusivity provisions in the previous contracts made with publishing houses/right owners in two months as of the notification of the Board decision and shall not include exclusivity provisions in the new contracts to be made both with publishing houses/right owners and voice actors starting from the date when the commitments become binding.

### **Meta Decision**

**(Board Decision dated 20.10.2022 and numbered 22-48/706-299)**



As a result of the investigation, with the Board decision dated 20.10.2022 and numbered 22-48-706-299, Meta Platforms Inc., Meta Platforms Ireland Limited and WhatsApp LLC (all referred to as Meta) distorted competition by complicating the activities of their competitors in personal social networking services and creating barriers to entry by means of combining the data they collect from Facebook, Instagram and WhatsApp, which are called core services; thus violated Article 6 of the Act no 4054 and Meta shall be imposed administrative fines. In addition, META was imposed the following obligations to terminate the violation and establish efficient competition in the market:

- a. META should submit the necessary measures to the Competition Authority within 1 (one) month as of the notification of the reasoned decision at the latest,
- b. META should implement the necessary measures within 6 (six) months as of the notification of the reasoned decision,
- c. META should submit an annual report periodically to the Authority for 5 (five) years following the implementation of the first compliance measure.

However, with its decision dated 21.12.2023 and numbered 23-60/1162-417, the Board decided that the compliance measures submitted by Meta in the time period set did not fulfill those obligations and Meta economic unity shall be imposed administrative fines for each day until the Final Compliance Remedy would enter the Competition Authority's registry starting from 12.12.2023, per article 17(1)(a) and 17(2) of the Act no 4054.

## Fresh Yeast Decision

(Board Decision dated 17.08.2023 and numbered 23-39/755-264)



The Competition Authority received a high number of complaints that the prices of the inputs used in bread production increased in a short time; however, the increase in the price of the fresh yeast, which is one of the basic inputs in the production of bread, was significantly higher than expected and the said price increase was determined by three fresh yeast producers together. As a result of the said complaints, a preliminary inquiry into the sector was launched. Some documents obtained in the on-site inspections made during the preliminary inquiry raised suspicions that in addition to the fresh yeast producers, their dealers were in an anticompetitive agreement. Depending on those documents, in November 2021, the Board opened an investigation about yeast producers, Lesaffre Turquie Mayacılık Üretim ve Ticaret AŞ (Lesaffre), Mauri Maya Sanayi AŞ (Mauri) and Pak Gıda Üretim ve Pazarlama AŞ (Pakmaya) as well as their 21 dealers.

During the investigation process, Lesaffre applied for settlement and the investigation was terminated with settlement with regard to Lesaffre. In the final settlement decision about Lesaffre, it is stated that certain undertakings dealing with distribution of fresh yeast fixed prices, allocated regions and customers and Lesaffre facilitated the conducts in question; therefore, Lesaffre violated article 4 of the Act no 4054 and shall be imposed nearly 73.8 million TL administrative fines.

As a result of the investigation, it was decided that 14 fresh yeast dealers violated article 4 of the Act no 4054 by means of price fixing, allocation of customers/regions and/or restriction of supply and the dealers' actions in question constituted a cartel. It was decided that Mauri violated article 4 of the Act no 4054 through its acts related to the implementation, coordination, continuity and control of the agreements on price fixing and allocation of regions and customers among undertakings engaged in the distribution of fresh yeast; those acts would be deemed as a cartel. It was also decided that Mauri violated Article 4 of the Act no 4054 by determining retail prices of the undertakings operating at that the downstream market. Consequently, fresh yeast dealers and Mauri were given about 35.4 million TL administrative fines totally. The sum of administrative fines given under the scope of the investigation is nearly 109 million TL.

Since no evidence of violation could be found about Pakmaya and seven fresh yeast dealers, they were not fined.

## Decisions about the Egg Investigations

(Board decision dated 26.10.2023 and numbered 23-50/979-349 and the Board decision dated 26.10.2023 and numbered 23-50/980-357)



A preliminary inquiry was initiated regarding the claim that undertakings and associations of undertakings operating in the production and sale of egg violated Article 4 of the Act no 4054. At the time of the preliminary inquiry process, findings were obtained suggesting that i) 17 egg producers supplying egg to supermarket chains set the egg prices together, allocated regions and customers, ii) Central Association of Egg Producers (Yumbir) and 12 local associations connected to the Central Association were engaged in practices aimed at fixing minimum prices and supply amounts of the egg product sold throughout Türkiye. The Board, taking into account the fact that the nature of the alleged practices and the parties involved were different, launched two separate investigations concerning the allegations.

The scope of the first investigation launched on 17 undertakings was extended throughout the investigation process and 17 undertakings were included in the investigation later. Fourteen undertakings acknowledged that they set egg prices jointly with their competitors and allocated regions/customers and the investigation was terminated for the relevant undertakings with settlement. For the remaining undertakings, while the Board ruled that that 12 undertakings set egg prices jointly with their competitors and their practices constituted a cartel, it decided that eight undertakings did not engage in the practices in violation.

Within the scope of the second investigation conducted on Yumbir and 12 local associations connected to Yumbir, the Board concluded that their actions aimed at fixing minimum prices and restricting supply amounts of the egg product sold throughout Türkiye violated article 4 of the Act. In total, nearly 98 million TL administrative fines were imposed to investigation parties which were found to have violated the Act.

## Namet Decision

(Board Decision dated 28.09.2023 and numbered 23-46/869-307)



On-site inspections were made on the premises of certain undertakings operating in fast moving consumer goods sector in the investigation, which showed that five national supermarket chains and some of the suppliers of those markets engaged in a hub-and-spoke cartel and some of the suppliers party to the investigation imposed resale price maintenance in terms of their own products. In an on-site inspection made on the premises of a regional supermarket

chain, evidence suggesting that Namet Gıda Sanayi ve Ticaret AŞ (Namet) determined the resale prices of organized retailers was obtained. In addition, in an on-site inspection made about a producer in milk and dairy products sector, certain findings obtained showed again that Namet engaged in resale price maintenance. Consequently, it was decided to launch preliminary inquiry on Namet. Considering the findings obtained significant and sufficient, the Board decided to open an investigation about Namet to determine whether it violated article 4 of the Act no 4054 by means of resale price maintenance.

Namet made a settlement application and the investigation about Namet was terminated with settlement. Within the framework of settlement, it was decided that Namet violated article 4 of the Act through resale price maintenance and Namet was fined nearly 73 million TL.

#### **Decision about Snack Producers (Board Decision dated 28.12.2023 and numbered 23-61/1205-429)**



In December 2022, on-site inspections were made on the premises of certain producers/suppliers operating in fast moving consumer goods sector in the investigation, which showed that five national supermarket chains and some of the suppliers of those markets engaged in a hub-and-spoke cartel and some of the suppliers party to the investigation imposed resale price maintenance in terms of their own products.

In the on-site inspections made on the premises of Eti Gıda San. ve Tic. AŞ (Eti), which produces snacks, evidence was obtained suggesting that Eti exchanged competitively sensitive information with Horizon Hızlı Tüketim Ürünleri Üretim Pazarlama Satış ve Ticaret AŞ (Horizon), Nestle Türkiye Gıda Sanayi AŞ (Nestle) and Danone Tıkveşli Gıda ve İçecek San. ve Tic. AŞ (Danone Tıkveşli), which are in the same market. Following the examination of the evidence in question, a new investigation was opened about the said undertakings in December 2022.

Eti's and Horizon's settlement requests were accepted in the investigation and they were imposed a total of nearly 91.2 million TL administrative fines. In addition, Nestle and Eti were found to have exchanged competitively sensitive information and Nestle was fined nearly 260 million TL. With respect to Danone Tıkveşli Gıda ve İçecek San. ve Tic. AŞ, no evidence could be found suggesting a violation of the Act; thus, it was not fined.

#### **The Decisions about Cosmetics and Personal Care Products Sector**

Many investigations were made in cosmetics and personal care products sector in 2023. The investigations looked into the restrictions on resellers' online/marketplace sales and/or interventions to resale price.

First, the investigation process started with six firms including Kosan, which is known for Avon and Flormar brands; Engingrup, which distributes brands such as Farmasi, Wella, Calvin Klein, Lacoste and



Versace; Naos, which is known for Bioderma brand and Pierre Fabre, which is known for Avene brand. The process continued with 22 cosmetics firms such as Elca, L'oreal, Rebul, Easyvit and Ege Teknoloji.

At the last stage of investigation phases, the Board opened an investigation about Amway, Ersag, Hunca, Oriflame and Tiens, which mostly make direct sales.

The evaluations showed that interventions in retail sales by means of vertical agreements in other words, "vertical interventions" are frequent as a structural problem because undertakings try to keep brand perception high and to create luxury image for the products, sell products that have high customer loyalty and protect resellers. After the pandemic, the importance of online sales channel has increased considerably, resulting in a downward pressure on prices. The investigations about firms in cosmetics sector found anticompetitive practices and they were imposed administrative fines.

In 22 files, which were completed in 2023, investigations were ended with settlement in terms of 24 undertakings; each undertaking benefited from 25% settlement reduction and totally 170,948,783 TL administrative fines were given. As of the end of 2023, settlement and/or commitment procedures are still ongoing for Neolife, Amway and Oriflame whereas Saçhane, Chi and Haks did not make settlement or commitment applications; the investigation process continues for the said undertakings.

#### **EssilorLuxottica S.A. Investigation Decision (Board Decision dated 17.08.2023 and numbered 23-39/749-259)**

### **EssilorLuxottica**

The case examined basically whether EssilorLuxottica S.A. (Essi-lux) excluded its competitors in the market for wholesale of ophthalmic lenses by means of sales campaigns, discount systems and similar practices or whether Essi-lux applied exclusivity. The allegation was that due to its vertically integrated structure, Essi-lux is a producer and supplier of glass cutting machines; as a part of market strategy, Essi-lux supplied those machines to optics shops at very reasonable

conditions and even free of charge provided that they purchased glass from Essi-lux and created actual exclusivity in ophthalmic lens market with its sale and term options that its competitors were not able to offer. Thus, the subject of the file is the allegation that Essi-lux's practices complicating the activities of its competitors in optics market and excluding them violated article 4 and 6 of the Act no 4054

The relevant product markets were defined as "stock lens production and wholesale", "RX lens production and wholesale", "production and sale of ophthalmic machines, devices and consumables used by opticianry institutions" and "contact lens wholesale". The relevant geographic market was Türkiye. As a result of the analysis made, it was found that Essi-lux is dominant in the markets for stock lens production and wholesale, RX lens production and wholesale, production and sale of ophthalmic machines, devices and consumables used by opticianry institutions but not dominant in the market for contact lens wholesale.

The examinations showed that the practices of Essi-lux, which is dominant with a much higher market share compared to its competitors, constituted exclusivity; opticians that made the bundle agreements in question with Essi-lux bought a significant amount of spectacle lenses from Essi-Lux and its competitors could not respond to its strategies about bundle agreements. Moreover, there were exclusivity provisions in Essi-lux's contracts with some opticians. Accordingly, it was concluded that Essi-lux violated the commitments it submitted to the Competition Board with the decision dated 01.10.2018 and numbered 18-36/585-286.

Therefore, Essi-lux was fined 492 million TL because it abused its dominant position by means of applying exclusivity via bundle agreements, included exclusivity provisions in its contracts with opticians and violated the commitments it submitted to the Competition Board in 2018.

### OBİLET Decision

(Board Decision dated 15.06.2023 and numbered 23-27/521-177)

**obilet.com**

The investigation looked into the allegations that in ticketing and platform services for bus transport sector, Obilet Bilişim Sistemleri Anonim Şirketi (Obilet) violated article 6 of the Act no 4054 by means of determining the ticket sale commission rates applied to bus firms for ticketing intermediary services at excessively high levels and excluding its competitors in the markets for ticketing software service, sale of bus tickets via

platforms and distributing trip data to platforms; violated article 4 of the Act no 4054 with the restriction on online ads included in Obilet's contracts in the market for the sale of bus tickets via platforms and the ban on communication which restricts platform's communication with bus firms whose trip data is provided by Obilet.

It was found that Obilet operates in ticketing software which displays bus firms' trips in all sales channels and screens simultaneously in a synchronized way, transferring the said trip data to ticket sale platforms as a portfolio and in listing and selling bus firms' trip data over platforms. It was understood that the activities in question were obviously different from other activities in their characteristics, prices and intended use. The relevant product markets were defined as *"the market for ticketing software service for bus transport"*, *"the market for distribution of bus trip data to platforms (B2B)"* and *"the market for selling bus tickets over platforms (B2C)"*. The relevant geographic market was "Türkiye". In addition, there were significant indicators that Obilet could be dominant in the said markets.

While the investigation process was ongoing, Obilet made a request to offer commitments. As a result of the commitment procedure, it was decided that the final commitments submitted by Obilet in terms of its practices that were deemed as competition problems shall be accepted, be



made binding for Obilet and Biletal İç ve Dış Ticaret AŞ, which is controlled by Obilet and the investigation shall be ended. The commitments in question are given below in summary:

1. OBİLET will prepare and sign an online ticket sale contract text without software service for transportation firms that use different ticketing software.
2. In case a transportation firm, which is currently using OBİLET's ticketing software, decides to use another software, Obilet will not close that transportation firm to sale over Obilet platform and Obilet will not discriminate or exclude the transportation firm.
3. A transportation firm can only be closed to sale via "obilet.com" platform in case it violates legislation provisions in effect and principal obligations, irrespective of the ticketing software it uses.
4. Obilet has developed a new business model and prepared an example contract to be signed with ticketing software companies in terms of submitting trip data to Obilet. Under this contract, Obilet will pay commission to companies offering ticketing software services for trip data they give to Obilet.
5. Obilet will not impose online advertisement ban to the brands of transportation companies whose trip data are distributed to competing online sale platforms.
6. Obilet will not impose comprehensive online advertisement ban on competing online sale platforms in terms of Obilet/Biletall.
7. Obilet will abolish contract provisions that prevent competing online sales platforms from communicating with transportation firms whose trip data are distributed and will not prevent online sales platforms from getting in contact with transportation firms.
8. In relation with the commitment no 7, according to Obilet's new business model, transportation firms can communicate with online ticket sale platforms directly; in this case, Obilet will be responsible for only conveying the data trip of the relevant transportation firm to the platform. In this business model, Obilet will not engage in discriminating or excluding practices against transportation firms.
9. Concerning ticket sales by online ticket sale platforms that purchase services from Obilet, Obilet will add a reporting screen to the software, where transportation firms can see the amount of ticket sales made by platforms and Obilet will not charge transportation firms or platforms for this.
10. Obilet will make an announcement and inform the transportation companies which use its ticketing software about the commitments.

## Labor Decision

(Board Decision dated 26.07.2023 and numbered 23-34/649-218)



The investigation examined whether 48 undertakings operating in various sectors, especially in e-trade, software and IT, violated article 4 of the Act no 4054 via gentlemen's agreements (no-poaching agreements).

For the analysis of the allegation, the labor market was taken as a basis in the investigation and the competitive relationship in the labor market was examined, irrespective of

undertakings' main business. It was stated that no-poaching agreements means sharing employees, which are important inputs; no-poaching agreements constitute an important barrier in front of labor mobility and employment efficiency, deprive employees of advantageous job opportunities, create inefficiencies by negatively affecting the distribution of labor input, indirectly lead to a decrease in or suppression on salaries/wages. In addition, those agreements, where undertakings mutually give up competing for labor, are like market/region/customer allocation and constitute a cartel.

While the investigation was ongoing, Yemek Sepeti, Trendyol, Getir, Bitaksi, Obilet, İsteGelsin, Adeo, Commencis, Doğuş Teknoloji, Garanti Teknoloji and Beymen applied for settlement. As a result of the settlement procedures, it was decided that since there was a consensus on no-poaching between Yemek Sepeti and Burger King, Commencis, Getir, Trendyol, Veripark ve Zomato; between Trendyol ile Arvato, Bitaksi, Beymen, Getir, Çiçek Sepeti, Insider, LCW, Obilet, Vivense and Yemek Sepeti; between Getir and Hepsiburada, Insider, Trendyol, Vodafone and Yemek Sepeti; Bitaksi and Trendyol; between Obilet and Trendyol; between İsteGelsin and Hepsiburada; between Adeo and Koçsistem; between Commencis and Yemek Sepeti and Zeplin; between Doğuş Teknoloji and Bilge Adam and Garanti Teknoloji; and between Beymen and Trendyol, they violated article 4 of the Act no 4054; 25% reduction shall be made to the administrative fines to be given to the said undertakings and the investigation shall be terminated with settlement in terms of those undertakings.

As a result of the investigation, it was concluded that there was a consensus on no-poaching between Bilge Adam and Doğuş Teknoloji and Koçsistem; between Binovist and Veripark; between Burger King and Yemek Sepeti; between Çiçek Sepeti and Trendyol; between Flo and LCW; between Hepsiburada and Getir and İsteGelsin; between Insider and Getir and Trendyol; between Koçsistem and Adeo, Bilge Adam and Türk Telekom; between LCW and Flo and Trendyol; between Türk Telekom and Koçsistem; between Veripark and Binovist and Yemek Sepeti; between Vivense and Trendyol; between Vodafone and Getir; between Zeplin and Commencis; between Zomato and Yemek Sepeti; moreover, LCW and Flo shared competitively sensitive information such as

wages and fringe benefits. Accordingly, administrative fines were imposed to 16 parties to the investigation because they violated article 4 of the Act no 4054. In terms of other 21 undertakings, no finding of violation could be obtained.

#### **Online Car Sale Platforms Decisions**

**(Board decisions dated 14.07.2023 and numbered 23-31/589-199, 23-31/590-200 and dated 21.07.2023 and numbered 23-32/629-211, 23-32/630-212)**



The investigation was related to the determination of whether Arabam Com İnternet ve Bilgi Hizmetleri AŞ (ARABAM.COM), Vava Cars Turkey Otomotiv AŞ (VAVA CARS), Letgo Mobil İnternet Servisleri ve Ticaret AŞ (LETGO OTOPLUS) and Araba Sepeti Otomotiv Bilişim Danışmanlık Hizmetleri Sanayi ve Ticaret AŞ (ARABA SEPETİ), which operate in purchasing and selling of second hand cars through online

platforms violated article 4 of the Act no 4054 with various practices.

As a result of the investigation, it was decided that ARABA SEPETİ, ARABAM.COM, LETGO OTOPLUS and VAVA CARS violated Article 4 of the Act no 4054 by restricting competition in the market for purchasing/selling second hand cars through negative matching in relation to Google text ads; within this framework, administrative fines shall be imposed pursuant to Article 16(3) of the Act no 4054 and article 5(1)(b) of the Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position. In terms of all parties, the investigation was terminated with settlement under the scope of the Regulation on the Regulation on the Settlement Procedure Applicable in Investigations on Agreements, Concerted Practices and Decisions Restricting Competition and Abuses of Dominant Position.

#### **SAMSUNG, LG and SVS Decision**

**(Board Decision dated 03.08.2023 and numbered 23-36/671-2227)**

The investigation looked into the allegation that Samsung Electronics İstanbul Pazarlama ve Ticaret Ltd. Şti. (Samsung), LG Electronics Ticaret A.Ş. (LG) and their distributors Gürses Kurumsal Tedarik ve Elektronik Tic. Paz. A.Ş. (Gürses) and SVS Dayanıklı Tük. Mall. Paz. ve Tic. Ltd. Şti. (SVS) violated article 4 of the Act no 4054 through resale price maintenance. Although the decision did not define a relevant product market, the documents were generally related to durable goods market.

The decision showed the infringements of SAMSUNG, LG and SVS in all aspects. Within this scope, the following findings were obtained:

- a) SAMSUNG monitored resellers' prices and SAMSUNG employees reported to executives about the prices. SAMSUNG communicated with resellers who did not comply with

the set prices directly or through distributors and urged them to increase sales prices. Following the dealers' complaints that sales were made at lower prices, SAMSUNG officials shared screenshots showing that they interfered in the deviations from price policy and corrected those. Besides, in case non-compliance with SAMSUNG's price policy and lower prices continued, SAMSUNG imposed sanctions via support applications and therefore SAMSUNG interfered in the sales prices that resellers should have determined independently.

- b) LG monitored resellers' prices, in case LG found that the resale prices were not the set level, it interfered in resellers' prices and urged them to increase prices; in addition, LG interfered also in its distributor's sales and interfered in the sales prices that resellers should have determined independently.
- c) SVS monitored the resale prices of its dealers through websites or dealer complaints, communicated with dealers who were considered to be applying low prices and urged them to increase sales prices under the scope of the said monitoring mechanism and thereby interfered in the sales prices that resellers should have determined independently.

While the investigation process was ongoing, GÜRSES made a settlement application about resale price maintenance allegations and the investigation was terminated with settlement for GÜRSES.

As a result of the investigation, the Board decided that SAMSUNG, LG and SVS violated article 4 of the Act no 4054 through resale price maintenance; thus, the said undertakings shall be imposed administrative fines.

#### ARÇELİK Decision

(Board Decision dated 03.08.2023 and numbered 23-36/682-235)



The investigation scrutinized whether Arçelik Pazarlama AŞ (ARÇELİK) violated Article 4 of the Act no 4054 by means of resale price maintenance and prevention of online sales.

Within the scope of the investigation, ARÇELİK submitted commitments that it would not prohibit its authorized sellers known as Arçelik dealers from making sales via online marketplaces provided that they fulfill certain conditions. It was found that ARÇELİK imposed a ban on marketplace sales to its dealers in terms of Arçelik and Beko brands before the investigation period. The Board decided that ARÇELİK's commitments shall be made binding and the investigation shall be terminated in terms of the ban on authorized dealers about online marketplace sales.



The investigation continued about the claims that ARÇELİK interfered in its authorized sellers' resale prices. It was found that ARÇELİK interfered in the prices of resellers, especially the resellers of Arçelik and Altus brand, of which ARÇELİK is the supplier, and ensured the prices were increased and thus violated article 4 of the Act no 4054. The undertaking was imposed administrative fines.

#### **SUNNY, MEDIAMARKT, TEKNOSA and VATAN Decision (Board Decision dated 26.10.2023 and numbered 23-50/978-355)**

It was decided that an investigation shall be opened about Sunny Elektronik Sanayi ve Ticaret AŞ (SUNNY) to determine whether SUNNY violated article 4 of the Act no 4054 by imposing a ban on online sales to resellers, by resale price maintenance and/or by mediating for the indirect exchange of information among Media Markt Turkey Ticaret Limited Şirketi (MEDIAMARKT), Vatan Bilgisayar San. ve Tic. AŞ (VATAN) and Teknosa İç ve Dış Tic. AŞ (TEKNOSA). Also, an investigation was opened about MEDIAMARKT, TEKNOSA and VATAN because of the suspicions about being party to an indirect exchange of information as mentioned above.

While the investigation was ongoing, SUNNY applied for settlement. It was decided that SUNNY violated article 4 of the Act no 4054 due to resale price maintenance; thus, administrative fines shall be imposed and under the settlement procedure the investigation shall be terminated in terms of SUNNY.

The findings obtained, which raised suspicions that SUNNY might have intermediated for indirect exchange of information among electronics stores, in other words, might have been a party to a hub-and-scope cartel, did not qualify as competent evidence and no conclusion was made against SUNNY in this respect.

No finding was obtained showing that other parties to the investigation - TEKNOSA, VATAN and MEDIAMARKT - contacted each other and/or exchanged information for price fixing; however, it was understood that they monitored each other while determining their pricing strategy and could react competitively as long as their costs permit. The economic analysis in the file examined price movements of several products. Although market conditions similar to those markets where competition is restricted were observed during certain periods, it was concluded that those findings were not sufficient to prove an agreement between competitors. Since no data showing that the the said undertakings violated article 4 of the Act no 4054 could be found, it was not necessary to impose administrative fines on the said undertakings.

### 3.2. Exemption/Negative Clearance

According to article 5 of the Act titled "Exemption", the Board may exempt agreements, concerted practices or decisions of associations of undertakings from the provisions of article 4 provided that they fulfill the requirements listed in that Article. The evaluation for exemption must be done first by undertakings and associations of undertakings since there is not an obligation/necessity to notify. Undertakings should take into account block exemption communiqués, guidelines explaining those communiqués and other relevant guidelines as well as past Board decisions while making an evaluation for exemption. The communiqués and guidelines issued within this framework are:

- "Block Exemption Communiqué no 2002/2 on Vertical Agreements" and "Guidelines on Vertical Agreements"
- "Block Exemption Communiqué no 2008/2 on Technology Transfer Agreements" and "Guidelines on the Application of Articles 4 and 5 of the Act no. 4054 on the Protection of Competition to Technology Transfer Agreements"
- "Block Exemption Communiqué no. 2008/3 on Insurance Sector"
- "Block Exemption Communiqué no 2013/3 on Specialization Agreements"
- "Block Exemption Communiqué no 2016/5 on Research and Development Agreements"
- "Block Exemption Communiqué no 2017/3 on Vertical Agreements in the Motor Vehicles Sector" and "Guidelines on the Block Exemption Communiqué on Vertical Agreements in the Motor Vehicles Sector"
- "Guidelines on Horizontal Cooperation Agreements"
- "Guidelines on Subcontracting Agreements"
- "Guidelines on the General Principles of Exemption"

According to Article 8 of the Act, upon the application by the undertaking or associations of undertakings concerned, the Board may grant a negative clearance certificate indicating that an agreement, decision, practice or merger and acquisition are not contrary to articles 4, 6 and 7 of this Act.

The method for exemption/negative clearance applications are explained in "Guidelines on the Voluntary Notification of Agreements, Concerted Practices and Decisions of Associations of Undertakings".

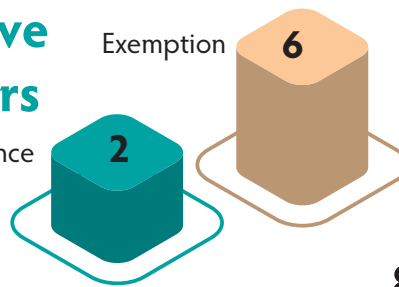
Article 13 of the Act regulates the withdrawal of exemption or negative clearance decisions. Accordingly, the Board may withdraw exemption or negative clearance decisions or prohibit certain behavior by undertakings in case the conditions listed in the said article occur. Exemption/negative clearance files concluded by the Board in 2023, the breakdown of those according to sectors and outcomes of the decisions are presented in the chart on the following page.



## Exemption & Negative Clearance in Numbers

Negative Clearance

Exemption



8 DECISIONS

## Breakdown of the Decisions According to Sector

3

Automotive and Vehicles

2

Information Technologies  
and Platform Services

2

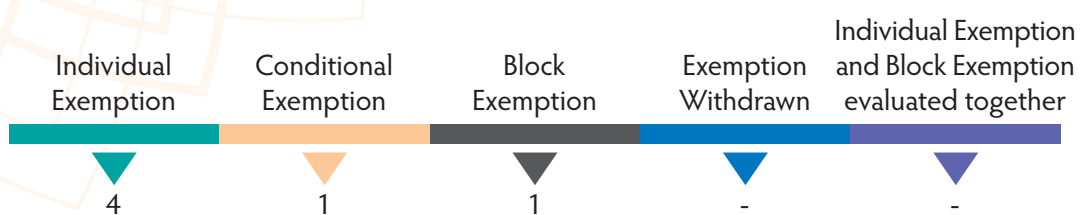
Banking, Capital Market,  
Finance and Insurance  
Services

1

Media, Advertising and  
Publishing

8 TOTAL

## Outcomes of Exemption Decisions



The charts on the previous page show that a total of eight exemption/negative clearance files were concluded, two being negative clearance and six being exemption. Automotive and vehicles; information technologies and platform services; banking, capital market, finance and insurance services and media, advertising and publishing are the sectors with the highest number of exemption/negative clearance examinations in the said year.

### 3.2.1 Examples of Negative Clearance/Exemption Decisions

#### Sabancı DX Decision

(Board Decision dated 22.06.2023 and numbered 23-28/547-187)



The file was opened upon the request for exemption to Arti (+) 1 Project (the Project), which was built by SEM İnternet Reklam Hizmetleri ve Danışmanlık AŞ. (SEM), which is controlled by Hacı Ömer Sabancı Holding (SAHOL), to obtain value from data with advanced data analytics.

The Project is planned to include many participants from different sectors (commercial customers who will benefit from the Project) and obtain meaningful findings about consumer behavior and reliable, valuable and meaningful insights<sup>3</sup> for marketing specific to participants depending on those findings. In general, the Project aims to create data pools peculiar to the application by using past, anonymous and encrypted data to be obtained from participants and anonymous past data to be obtained from third party data sources.

Then, findings depending on patterns and designs about customer behavior will be obtained with advanced data analytics tools. Those general findings will be distributed to the participant's data set and create insights to be used in marketing activities which the participants will make for certain products or customer groups in line with the needs of the participants.

Basically, the file focused on whether it would be possible for participants to coordinate. Regarding that concern, SEM ensured that the data compiled under the umbrella of SEM in no way would be transferred to SAHOL, its shareholdings or third participants thanks to the legal and technical measures taken under the Project. Following the evaluations that the applicants' market shares were low in data analytics market and the Project would make the market more competitive, the decision dated 22.06.2023 and no 23-28/547-187 was taken that the Project shall be granted individual exemption for five years on condition that a third person shall be assigned to make inspections through an independent inspector about the activities under the scope of the Project, the subject

<sup>3</sup> Insights are defined as the characteristics that define, in a certain degree of reliability, the customer group which is likely to answer positively if the participant targets its marketing activities.

and participants of those activities, whether competing undertakings are included in the same activity and which data are collected for activities and an annual report should be submitted to the Board.

#### Doğuş Oto Decision

(Board Decision dated 07.09.2023 and numbered 23-41/796-280)



The subject of the file is Doğuş Otomotiv Servis ve Ticaret AŞ's (DOĞUŞ) request for negative clearance certificate/exemption to giving base wage recommendation to its dealers to be taken into account in employees' wages.

Since the notified transaction would affect those who are working in the market for "sale and aftermarket services of automobiles", the findings and evaluations in the file took into account "*labor market related to the sale and aftermarket services*" with respect to relevant product market and "*Türkiye*" with respect to relevant geographic market; however an exact market definition was not made.

First, it was concluded that the notified practice in question could not be granted negative clearance certificate as it was likely to affect and freeze the wages.

The evaluation made afterwards for block exemption, calculating DOĞUŞ's market share according to the provisions of the Communiqué no 2002/2 showed that its market share was below 20%. Moreover, it was seen that recommending a basic wage would be beneficial for most of the dealers since this would facilitate reaching qualified personnel and independent wage reports and provide guidance.

Consequently, it was concluded that the notified practice could not be granted a negative clearance certificate because it fell under the scope of article 4 however it could benefit from block exemption according to the Communiqué no 2002/2.

#### ETS-BİLETALL Decision

(Board Decision dated 28.12.2023 and numbered 23-61/1190-425)

**etstur**



Ets Ersoy Turistik Servisleri AŞ (ETS TUR) requested that its contract with Biletal İç ve Dış Ticaret AŞ (BİLETALL) on integrating bus ticket sales to its website ucuzabilet.com be granted negative clearance or exemption.

According to the contract, XML codes<sup>4</sup> that belong to the bus firms that have a contract with BİLETALL, bus transport services at routes and times shown at those codes will be integrated to *ucuzabilet.com* platform and offered to the end consumer. Consequently, ETS TUR will start operating in the market for sale of bus tickets over platforms (B2C) in addition to its current activities.

With the notified contract, a vertical relation will be established between BİLETALL and ETS TUR, in terms of providing bus trip data (B2B service); between a bus firm and ETS TUR in terms of mediating for bus ticket sales. It is seen in some of the provisions of the contract that bus ticket fees are set by bus firms and ETS TUR does not have a right to set or change ticket sale prices or discount rates. Moreover, according to the contract, BİLETALL transfers the ticket prices to ETS TUR's ticket sale platform as the bus firms submit them to BİLETALL without any changes or interventions; therefore, in case of an increase-decrease in ticket prices or mistyped prices, BİLETALL is not responsible.

When the contract provisions are analyzed from the perspective of article 4 of the Act no 4054, a ticket's first sale is completed once the passenger buys the ticket over ETS TUR or similar online ticket sale platform; thus, it is not possible to talk about the resale of the passengers tickets. In addition, depending on the examination of the Distance Sale Contract on passenger tickets, it is seen that BİLETALL is only the owner of the website selling the tickets, does not have responsibility for transport services and mediates for the sale of tickets with the contract in question and it is concluded that the business model in question can be regarded as consignment sales.

The notified contract is evaluated taking into account the explanations about fulfillment contracts made by the European Commission in EU Vertical Agreements Guidelines on 10.05.2022. It is concluded that there are two types of fulfillment relations due to the bilateral nature of the market, in those two types of relationship; it is possible to examine the ticket price which is charged by the supplier bus firm in return for transportation service in the context of fulfillment relation. The platforms which the bus firm itself chooses for mediating for the sale of tickets refers to a fulfillment and a bus firm's setting the ticket price cannot be regarded as resale price maintenance.

In line with the evaluations and findings, it was decided that the notified transaction would be granted negative clearance according to article 8 of the same Act.

<sup>4</sup> XML codes mean the codes that allow online sales of bus firm tickets which will be provided to *ucuzabilet.com* by BİLETALL.

## ETS-2 Decision

(Board Decision dated 28.12.2023 and numbered 23-61/1189-424)

The logo for etstur, featuring the word "etstur" in a bold, red, lowercase sans-serif font.

The file is related to the request that *B2B Sales Contract* on providing access to Application Programming Interface (API), which will be used to allow travel service intermediaries operating in a determined geographic market to sell ETS TUR's touristic travel products and services to another business or final customer and *Platform Membership and API Use Contract*, which will be signed for allowing the persons whom ETS TUR will cooperate to use Platform or API by giving login permission to the Platform, where the sale or booking of touristic travel services that will be added according to ETS TUR's choice will be made, through the internet and/or API be granted negative clearance or exemption, if it is not possible.

ETS TUR offers B2B and B2C domestic and international package tours, hotel accommodation and plane ticket services, at the same time, it sells the relevant inventory over "*ucuzabilet.com*", "*odamax.com*" and "*etstur.com*" platforms in the downstream market. It is seen that ETS TUR and the travel service agencies that are parties to the notified contract are competitors in the market for online sales of travel products/services, which is the downstream market. In the notification form undertakings such as Expedia, Agoda, Hotelbeds, Webbeds, Ratehawk, Jolly, Setur and Tatilbudur are stated as ETS TUR's both competitors and customers within the scope of B2B Sale Contract and Platform Contract. Therefore, it was concluded that the notified contracts signed between ETS TUR and travel service intermediaries did not have the nature of vertical agreements between competitors.

Under the scope of the notified B2B Sales Contract, unless otherwise is stated in written form, rights like logo, trade name, trade mark, etc. which belong to ETS TUR and undertakings providing inventory such as airlines, hotels and travel agencies cannot be used without permission for commercial purposes. Since the brands the use of which is restricted have trademark registration certificate owned by ETS TUR, the restriction brought by ETS TUR about unauthorized use of intellectual rights such as brand, logo etc. of ETS TUR and undertakings providing inventory has a legal basis according to the Industrial Property Act no 6769 (the Act no 6769).

On the other hand, with the other notified contract - *the Platform Contract* - ETS TUR brings a restriction on the use of logos, trade names, trademarks and other promotion marks belonging to ETS TUR, its group companies and subsidiaries as a reference or with trade or advertisement



purposes. It is concluded that when considered in a broad sense, the advertising ban covers also online ads, the legal relation for the use of the trademark online cannot be established under the scope of the Act no 6769; thus, the said ban is legal according to the Act no 6769.

As a result, in line with the analysis and findings, it is understood that the B2B Sales Contract, Platform Membership and API Use Contract do not include provisions contrary to the Act no 4054; therefore, the said contracts shall be granted negative clearance according to article 8 the Act no 4054.

### TRUGO-SHELL Decision

(Board Decision dated 21.12.2023 and numbered 23-60/1159-414)



The file examines the request for individual exemption to the "Cooperation Contract to be made between Charging Network Operators" (Charging Network Operators) and its annexes and "Service Provision Contract", which has been signed between Trugo Akıllı Şarj Çözümleri Sanayi ve Ticaret Anonim Şirketi (TRUGO), which is a subsidiary of Türkiye's Automobile Joint Venture Group (TOGG) and Shell&Türkas

Petrol AŞ (SHELL).

With the notified Charging Network Contract, SHELL and TRUGO each will install and operate charging stations for electric vehicles in Shell's gas stations and provide service to each other's customers through their own applications. With the Service Provision Contract, TRUGO will provide SHELL Charging Point Operator Management Platform, Mobility Service Provision and Call Center Customer Services in relation to the activities concerning charging devices.

The Charging Network Contract between TRUGO and SHELL is horizontal whereas Network Operation Contract between TRUGO, SHELL and the dealer is a vertical agreement. Therefore, the cooperation between the parties is regarded as a horizontal agreement with vertical elements and exclusivity provisions in the contract are analyzed. The analysis shows that the cooperation between the parties will lead to better and more efficient services for customers by increasing the efficiency of the services provided. Considering that there are no barriers to entry and the effect of the notified cooperation in the market at current conditions is limited, it is concluded that the necessary conditions for exemption are fulfilled.

The Board has decided that the said Charging Network Contract and Service Provision Contract shall be granted individual exemption starting from their effective date and as long as they are valid since they fulfill the necessary conditions according to article 5 of the Act no 4054.



### TOGG-BOSCH Decision

(Board Decision dated 21.12.2023 and numbered 23-60/1160-415)



The file is about the request that Global Service Network Contract signed with Bosch Sanayi ve Ticaret AŞ (BOSCH) and Authorized Chain Service Contract signed with repair and maintenance services within the framework of the hybrid system to be built by Türkiye's Automobile Joint Venture Group (TOGG) in relation to providing aftermarket services to electric passenger cars that it will launch.

Taking into account the fact that both TOGG and BOSCH have repair and maintenance service network for motor vehicles, they are competitors in the market in question. It is also possible to say that the parties are potential competitors with regard to *"the market for spare parts for TOGG brand vehicles"*. It is concluded that the said information exchange can raise competitive concerns under the scope of article 4 of the Act no 4054 and TOGG will use quantitative selective distribution system; thus, the said contracts cannot be granted negative clearance. The contracts are put under block exemption assessment according to the Communiqué no 2017/3 on Vertical Agreements in the Motor Vehicles Sector (the Communiqué no 2017/3).

As a result of the assessment of the provisions of Global Service Network Contract and Authorized Chain Service Network, it is understood that they cannot meet the general conditions listed in article 5 of the Communiqué no 2017/3 in terms of termination period. Within this framework, individual exemption assessment is made under article 5 of the Act no 4054.

Consequently, it is concluded that the notified contracts fulfill the conditions for individual exemption and they can be granted individual exemption per article 5 of the Act no 4054.

### HDI Fiba, Fiba Sigorta and Fibabanka Decision

(Board Decision dated 10.08.2023 and numbered 23-37/686-237)

The application is about the request that Life Insurance Agency Contract signed between HDI Fiba Emeklilik ve Hayat AŞ (HDI FİBA) and Fibabanka AŞ (FİBABANKA) and Non-Life Insurance Agency Contract signed between Fiba Sigorta Anonim Şirketi (FİBA SİGORTA) and FİBABANKA be granted individual exemption according to article 5 of the Act no 4054.

Within the scope of the said agreements, HDI FİBA authorizes FİBABANKA for marketing and sale of life insurance product whereas FİBA SİGORTA authorizes FİBABANKA for marketing and sale of non-life insurance policies and products in the capacity of an agency.

The relevant product markets are defined as “life insurance services market”, “non-life insurance services market” and “personal pension services market” in terms of upstream markets and as “agency services for life insurance products”, “agency services for non-life insurance products” and “agency services for personal pension products” in terms of downstream markets.

It is found that in both contracts HDI FİBA and FİBA SİGORTA brings non-compete obligation to FİBABANKA during the term of the contract. At the same time, there are no-poaching provisions, most favored customer provision in favor of FİBABANKA customers and obligation on HDI FİBA and FİBA SİGORTA not to sell life and non-life insurance products to other banks’ customers outside the distribution network.

It is concluded that the contracts cannot be granted individual exemption because they include a non-compete obligation. Although the market shares of contract parties in the relevant markets do not exceed the thresholds set for block exemption, since the non-compete obligation on the buyer is more than five years, the contracts cannot benefit from block exemption, either.

Considering the contracts under the scope of the four conditions listed in article 5 of the Act no 4054, it is concluded that FİBABANKA can make more technological and corporate investments on a single insurance firm, those investments can improve the services provided ultimately to consumers; improved quality and sustainability in the services provided to consumers as a result of increased investments in the employment of qualified personnel and installing the necessary infrastructure as well as specialization, which will be the result of long-term cooperation, will be in favor of consumers. It is also concluded that the effects of contracts that are restrictive of competition, especially because of exclusivity provisions, will be limited since the parties have low market shares in the markets in question, and there are strong players with higher market shares and competition in a significant part of the market will not be eliminated. As a result of the evaluations made, it is decided that the transaction in question meets the conditions listed in subparagraphs (a), (b), (c) and (d) of article 5 of the Act no 4054. In line with this, the contracts are granted individual exemption per the Board decision dated 10.08.2023 and numbered 23-37/686-237.

### 3.3. Mergers and Acquisitions

Article 7 of the Act no 4054 on the Protection of Competition prohibits mergers and acquisitions which would result efficient in significant lessening of efficient competition within the whole or a part of the country in order to create dominant position or strengthen an existing dominant position. The Article provides that certain agreements should be notified and authorized by the Board to be legally valid and states that Board declares, via communiqués to be issued by it, the types of mergers and acquisitions which have to be notified to the Board and for which authorization has to be obtained, in order them to become legally valid. Accordingly, the Communiqué no 2010/4

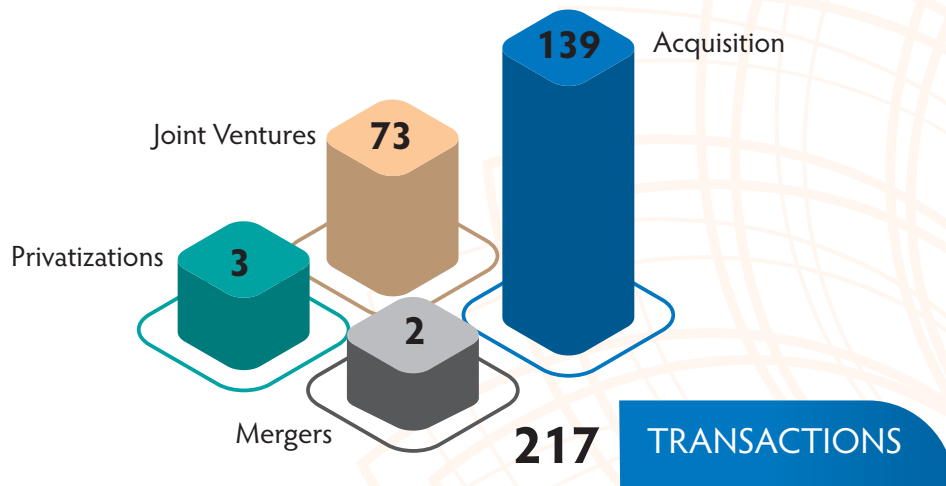
Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board" is in force.

In addition, the Competition Board issued several guidelines related to monitoring mergers and acquisitions. Those are

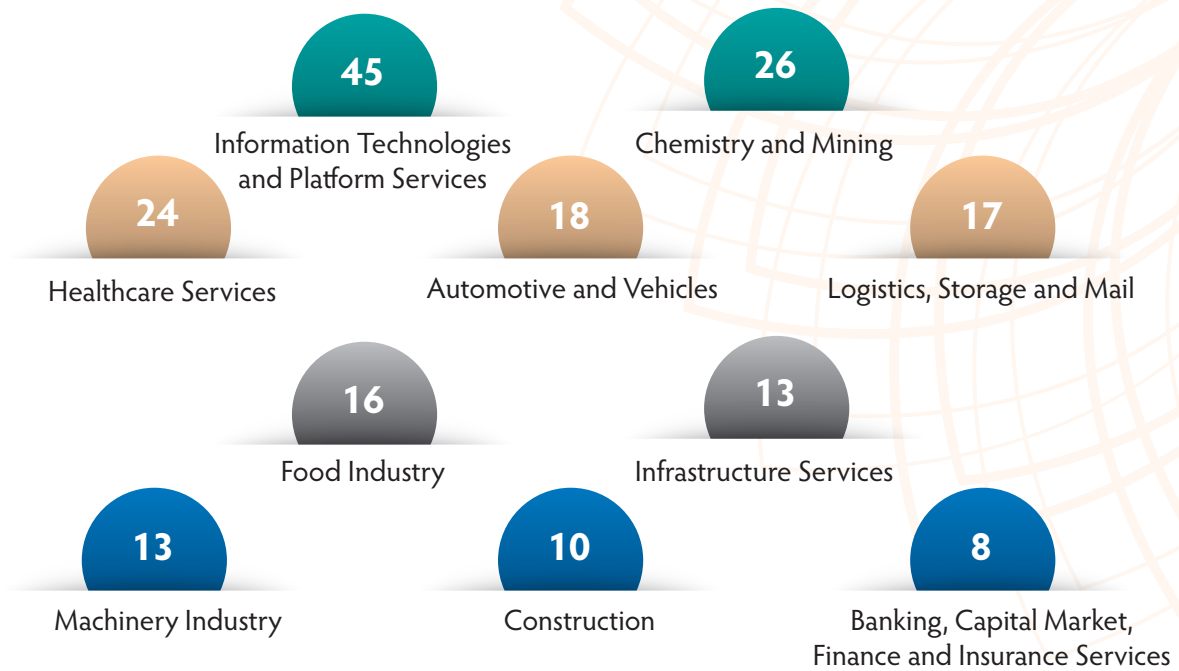
- "Guidelines on Cases Considered as a Merger or an acquisition and the Concept of Control", which is related to cases considered as a merger or an acquisition and permanent change in control, which is the fundamental factor in determining those cases,
- "Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions" for increasing legal clarity and predictability for undertakings and enforcers,
- "Guidelines on the Assessment of Horizontal Mergers and Acquisitions", which is published to demonstrate the general principles to be taken into account by the Competition Board in preliminary assessments concerning horizontal mergers and acquisitions
- "Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions" for explaining the general principles to be taken into account by the Competition Board in preliminary assessments concerning non-horizontal mergers and acquisitions.
- "Guidelines on Remedies That are Acceptable by the Turkish Competition Authority in Merger/Acquisition Transactions", which is published to guide the parties about the remedies they will submit in order to eliminate competitive concerns to be created by a concentration that might be prohibited by Article 7 of the Act.

As seen from the chart on the next page, in 2023, the Competition Board concluded 217 applications; 2 mergers, 139 acquisitions, 73 joint ventures and 3 privatizations. The first ten sectors with the highest number of merger/acquisition decisions in 2023 are respectively information Technologies and Platform Services, chemistry and mining, healthcare services, automotive and vehicles, logistics, storage and mail, food industry, infrastructure services, machinery industry, construction and banking, capital market, finance and insurance sectors. The decisions taken related to those sectors constitute about 88% of all merger/acquisition decisions. 184 merger and acquisition transactions were authorized without conditions and three were authorized conditionally out of 217 merger and acquisition transactions examined by the Competition Board in 2023. 30 merger/acquisition transactions submitted to the Board were out of scope or not subject to authorization.

## Mergers and Acquisitions in Numbers



### Breakdown of Merger and Acquisition Decisions According to Sectors (First ten sectors)



### 3.3.1. Examples of Decisions Related to Mergers and Acquisitions

#### Twitter Decision (2023-1-005)

(Board Decision dated 02.03.2023 and numbered 23-12/197-66)



Elon R. MUSK's acquisition of Twitter was examined ex officio according to article 11 of the Act no 4054. In the assessments, it is understood that Twitter is a digital platform within the framework of its services in social networking, online advertising and the provision of data licensing services; therefore, it falls under "technology undertaking" definition. It is concluded that the transaction is subject to the

authorization of the Board.

As a result of the evaluation of the parties' fields of activity, it is concluded that there are not any horizontal and vertical overlaps between the parties' activities on a global scale or throughout Türkiye. Since efficient competition will not be eliminated as a result of the transaction, it is authorized with the Board decision dated 02.03.2023 and no 23-12/197-66. However, it was decided that Elon R. MUSK was imposed administrative fines by 0.1% of his gross revenues generated in Türkiye in 2022 according to the Act no 4054 because the transaction in question has been realized without the authorization of the Competition Board.

#### Ekol-DFDS Decision

(Board Decision dated 26.07.2023 and numbered 23-34/643-216)



The subject of the file was the acquisition of the business related to international land transport of Ekol Lojistik AŞ (EKOL), which is controlled by Ahmet MUSUL, by DFDS A/S (DFDS).

The markets affected by the notified transaction were defined as "scheduled maritime transport services made with Ro-Ro ships which carry wheeled and mobile load", "international road load transport" and "international road load transport with using Ro-Ro ships".

Afterwards, it was concluded that there was a vertical overlap between DFDS's Ro-Ro transportation activities and EKOL's international road load transport activities. Accordingly, unilateral and coordinated effects of the transaction were analyzed.

The analysis showed that as a result of the transaction, the acquired undertaking could have an advantageous position compared to its competitors and discriminate against competitors at the



time of acceptance to ship and due to those concerns, efficient competition could be restricted significantly. However, the commitment text with behavioral remedies submitted by the parties was found sufficient to eliminate competitive concerns; the transaction was conditionally authorized within the framework of the commitments submitted by DFDS and it was stated that the parties should make an application about whether the term of the commitments would be extended.

### Evyap Port-DP World Decision

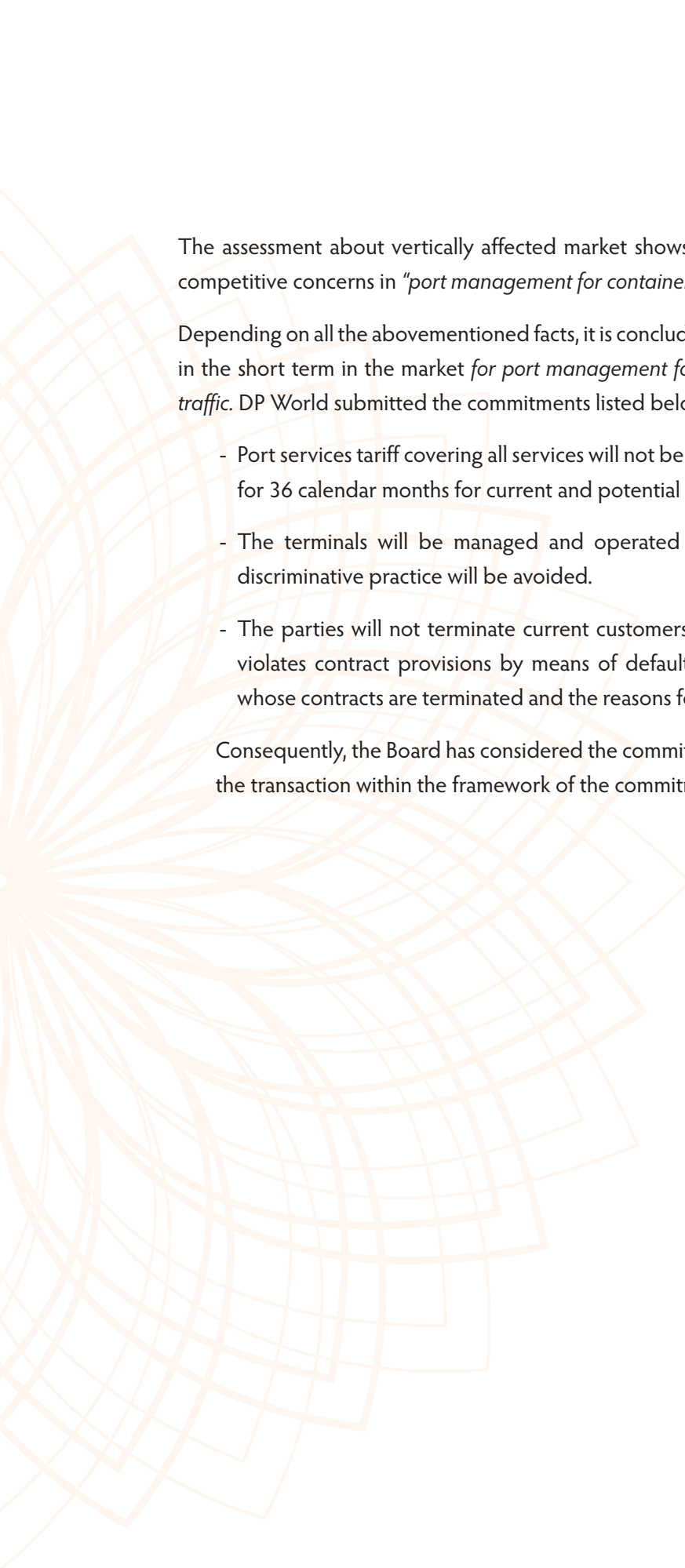
(Board Decision dated 23.11.2023 and no 23-54/1075-379)



The notified transaction is the acquisition of a certain amount of the shares and sole control of Evyap Deniz İşletmeciliği Lojistik ve İnşaat Anonim Şirketi (Evyap Port) by DP World Limited's hundred percent subsidiary DP World FZE (DP World).

The analysis about the relevant markets show that there is a horizontal overlap in the market for port operation for container handling and a vertical overlap in feeder services market between the parties' activities. The relevant markets are defined as *"feeder services market"* and *"port management services for container handling"*. The market for port management services for container handling is divided into two: *"port management for container handling related to hinterland traffic"* and *"port management for container handling related to transit traffic"*. The geographic borders of *"port management for container handling related to hinterland traffic"* market is defined in a broad sense as *"Marmara region"* and as *"Northeast Marmara region"* in a narrow sense whereas it is considered that the geographic market can be defined as Türkiye and neighboring countries for *"port management for container handling related to transit traffic"* market but the geographic market is not defined.

Based on this, it is seen that the parties' market shares are well below the threshold set in Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions in *"port management for container handling related to transit traffic"* market. The main concern about the transaction rises in *"port management for container handling related to hinterland traffic"*. When the current market shares are considered, it is concluded that two of the strongest three market players will be under the same control structure, this will increase the concentration level in the market and other players in the market will not make a competitive pressure on the integrated undertaking in the short term. However, it is concluded that in the medium and long term, there are competitors that have the motivation and potential to make competitive pressure on the merged undertaking, ports in the market have idle capacity, buyers can work with more than one supplier at the same time and there is significant buyer power in the market. Moreover, it is not possible that efficient competition may be reduced significantly through coordinated effects.



The assessment about vertically affected market shows that the transaction will not lead to any competitive concerns in “*port management for container handling*” and “*feeder services*” markets.

Depending on all the abovementioned facts, it is concluded that competitive concerns may emerge in the short term in the market *for port management for container handling related to hinterland traffic*. DP World submitted the commitments listed below about the said concerns:

- Port services tariff covering all services will not be amended in a way to exceed a certain rate for 36 calendar months for current and potential customers.
- The terminals will be managed and operated on a common-user basis; any unfair or discriminative practice will be avoided.
- The parties will not terminate current customers’ contract intentionally unless a customer violates contract provisions by means of default; inform the Board about the customers whose contracts are terminated and the reasons for termination during 36 calendar months.

Consequently, the Board has considered the commitments sufficient and decided to authorize the transaction within the framework of the commitments.



## Sectors with the Highest Administrative Fines Imposed (2022-2023)



### 3.4. Statistical Data for the Last Five Years

**Table 2: Files Finalized**

Year	Competition Infringements	Exemption/ Negative Clearance	Merger/ Acquisitions/ Joint Venture/ Privatization	TOTAL
2019	69	35	208	312
2020	65	34	220	319
2021	74	22	309	405
2022	78	19	245	342
2023	145	8	217	370

A look at the last five years of the Competition Board's work between 2019 and 2023 shows that the lowest number of finalized decisions was taken in 2019 with 312 files, and the highest number was in 2021, with 405 files. The total number of finalized files in 2023 has increased around 8% compared to the previous year, up to 370. In parallel, the total number of finalized files in the relevant period of time may be said to vary by year.

According to the breakdown of files, merger and acquisition files have a larger share between 2019 and 2023. They are followed by competition infringements. Exemption/negative clearance files have the smallest share. In 2023, of 370 finalized decisions, 217 were mergers and acquisitions, 145 were infringements of competition and eight were exemption/negative clearance. In other words, out of the decisions finalized in the relevant year, around 59% involved mergers and acquisitions, 39% involved infringements of competition, and 2% exemption/negative clearance cases.

When compared with the previous year in terms of the types of the files finalized, 2023 saw an increase in infringements of competition decisions from 78 in 2022 to 145. On the other hand, the number of merger and acquisitions decisions fell from 245 to 217, and of exemption/negative clearance decisions the 19 to 8. As a result, the highest proportional change compared to the previous year was in the number of finalized decisions concerning mergers and acquisitions. However, in general, there is a decrease in the number of examined infringements of competition and merger/acquisition files in 2023.

Table 3: Files Finalized under Articles 4 and 6 of the Act

Year	Article 4	Article 6	Mixed (4 and 6)	TOTAL
2019	30	26	13	69
2020	36	22	7	65
2021	40	23	11	74
2022	58	14	6	78
2023	121	18	6	145

The number of total decisions related to whether article 4 and/or 6 of the Act no 4054 is violated is 69, 65, 74, 78 and 145 respectively in the five year period observed. In 2023, there was an increase of around 86% in the number of finalized decisions as compared to 2022. Of the 145 decisions taken in 2023 concerning claims of infringements, 121 examined violations of Article 4, 18 examined violations of Article 6, and 6 examined violations of both Article 4 and Article 6. In that framework and similar to the previous years, the majority of the decisions taken by the Board with relation to claims of infringements of competition in 2023 involved claims of Article 4 violations.

Table 4 shows the history of the Competition Board decisions that include claims of Article 4 violations in the last five years, revealing that the number of decisions was 43, 43, 51, 64 respectively and 127 in 2023. During this five year period, out of 328 files, which examined competition infringements, 177 in other words approximately 54% were related to the claims of article 4 violations. Around 54% of these 177 files addressed claims of Article 4 violations on their own, while 3% addressed claims of Article 6 violations in addition to Article 4. In 127 decisions, where the claims regarding the violation of article 4 of the Act were evaluated in 2023, 55 decisions were related to horizontal agreements whereas 69 decisions are related to vertical agreements. Three decisions were related to both vertical and horizontal agreements.



**Table 4: Horizontal and Vertical Agreements within the Scope Of Article 4 of the Act<sup>5</sup>**

Year	Horizontal	Vertical	Mixed (H/V)	TOTAL
2019	23	18	2	43
2020	31	10	2	43
2021	30	19	2	51
2022	38	25	1	64
2023	55	69	3	127

**Table 5: Negative Clearance Files Finalized**

Year	Granted Negative Clearance	Granted Negative Clearance Subject to Conditions	Denied Negative Clearance	TOTAL
2019	6		2	8
2020	3			3
2021	5			5
2022	4			4
2023	2			2

In 2023, Competition Board took two negative clearance decisions.

<sup>5</sup> This Table covers the files included in the first and third columns of Table 3.

Table 6: Finalized Exemption Files

Year	2019	2020	2021	2022	2023
Granted Individual Exemption	16	15	9	5	4
Files under Block Exemption	5	1		3	1
Granted Individual Exemption Subject to Conditions		7	2	4	1
Files under Block Exemption Subject to Conditions			3		
Denied Exemption	1	7	3		
Exemption Withdrawn	2			1	
Individual and Block Exemption Assessed Together	3	1		2	
Other					
TOTAL	27	31	17	15	6

As shown in Table 6, the number of exemption applications finalized in 2023 was six. The distribution of exemption decisions taken by the Competition Board in 2023 according to outcomes shows that in four decisions the relevant agreements were granted individual exemption unconditionally, one agreement was granted individual exemption conditionally and one agreement was considered under the scope of block exemption.

**Table 7: Merger, Acquisition, Joint Venture and Privatization Files Finalized**

Year	Merger	Acquisition	Joint Venture	Privatization	TOTAL
2019	1	140	66	1	208
2020	8	150	62		220
2021	5	214	83	7	309
2022	2	160	76	7	245
2023	2	139	73	3	217

In 2023, 217 merger/acquisition/joint venture/privatization transactions were finalized. Compared to the previous year, the number of finalized merger/acquisition/joint venture/privatization transactions saw a decrease of around 12%. Similar to the 2019-2022 period, most of these were comprised of merger decisions in 2023 as well. Approximately 64% of the transactions concluded according to article 7 of the Act in 2023 were acquisitions with 139 files. Establishment of joint venture transactions had a share of about 34%, with 73 files. In 2023, two mergers and three privatization transactions were finalized.

As shown in Table 8, the distribution of the decisions taken in 2023 under Article 7 of the Act according to their outcomes reveals that 30 out of the 217 applications received were out of scope/ below threshold. Out of 187 applications, which were under the scope of the act and were subject to authorization, 184 applications were authorized unconditionally whereas three applications were authorized conditionally. No applications related to merger/acquisition/joint venture/ privatization transactions were denied authorization in 2023. In this five-year period, one merger/ acquisition/joint venture/privatization transaction was prohibited in 2020, and 12 transactions

were authorized subject to conditions. Within this framework, approximately 99% of mergers and acquisitions that were notified within the said five-year period and subject to the authorization of the Competition Board were authorized unconditionally.

**Table 8: Outcomes of the Concluded Merger, Acquisition and Privatization Files**

Year	Authorized	Authorized Subject to Conditions	Denied	Out of Scope/ Under Thresholds
2019	185	2		21
2020	190	1	1	28
2021	277	3		29
2022	209	2		34
2023	184	3		30



Article 40 of the Act grants power to the Board to initiate an investigation directly or to make a preliminary inquiry to find out whether it is necessary to initiate an investigation on its own initiative or as a result of applications made. Within this framework, the Competition Board examined 70 files in 2023 on its own initiative. The distribution of the 70 files examined on the Board's own initiative according to their types shows that 68 of them concerned claims of Article 4 violations, one concerned claims of Article 6 violation and one concerned claims of Article 7 violation. The majority of the files examined ex officio is related to the claims of violation of article 4 in 2023, like in the previous four years.

**Table 9: The Breakdown of Files Examined Ex Officio**

Year	Article 4	Article 5	Article 6	Both (4 and 6)	Article 7	Exemption/ Negative Clearance	TOTAL
2019	8		1		1		10
2020	8						8
2021	13		2				15
2022	16	1	1				18
2023	16		1		1		70



Table 10: Administrative Fines (TL)\*

	Year	Infringements	Mergers / Acquisitions	Exemptions / Negative Clearances	TOTAL
Substantive Fines	2019	237.674.115			237.674.115
	2020	1.964.045.143			1.964.045.143
	2021	4.229.946.505			4.229.946.505
	2022	1.731.940.315			1.731.940.315
	2023	1.900.675.663			1.900.675.663
False or Misleading Information/Documents in Applications (Art, 16/1-a)	2019				
	2020		838.656		838.656
	2021				
	2022				
	2023				
Failure to Notify M&A within due time (Art, 16/1-b)	2019				
	2020		21.001.468		21.001.468
	2021		1.242.897		1.242.897
	2022				
	2023				
Providing missing, false or misleading information/ documents under requests for information and/or on-site inspections (Art, 16/ 1- c)	2019	826.106			826.106
	2020	61.468.770			61.468.770
	2021				
	2022	153.622	3.364.785		3.518.407
	2023	3.445.013			3.445.013
Hindering or complicating on- site inspection (Art, 16/ 1- d)	2019	38.116.077			38.116.077
	2020	2.550.980			2.550.980
	2021	121.038.512			121.038.512
	2022	115.268.236			115.268.236
	2023	267.887.916			267.887.916
Relative Administrative Fines (Art, 17)	2019	4.522.657			4.522.657
	2020	151.407.833			151.407.833
	2021	3.392.292			3.392.292
	2022				
	2023	492.203.349			492.203.349

\* Administrative fines related to the files reevaluated after judicial decisions are not included and the subparagraphs amended by the Act dated 23.01.2008 and numbered 5728 are taken into account.

**Table 11: Files Administrative imposed under Articles 4 and 6 of the Act (TL)\***

	Year	Article 4 Files under the Scope of	Article 6 Files under the Scope of	4 and 6 Article Both examined Scope of	TOTAL
Substantive Fines	2019	228.733.560	8.940.555		237.674.115
	2020	1.656.837.739	307.207.404		1.964.045.143
	2021	3.453.040.530	296.084.900	480.821.076	4.229.946.505
	2022	1.379.322.246	352.618.069		1.731.940.315
	2023	1.799.182.282	101.493.381		1.900.675.663
Providing missing, false or misleading information/ documents under requests for information and/or on-site inspections (Art, 16/ 1- c)	2019	800.079	26.027		826.106
	2020	61.468.770			61.468.770
	2021				
	2022		153.622		153.622
	2023	2.106.662	1.338.351		3.445.013
Hindering or complicating on-site inspection (16, /1(d))	2019	4.896.131	33.219.946		38.116.077
	2020	2.550.970			2.550.970
	2021	117.247.394		3.791.119	121.038.512
	2022	115.207.748	60.488		115.268.236
	2023				
Relative Administrative Fines (Art, 17)	2019	251.262	4.271.395		4.522.657
	2020	75.934.394	75.473.439		151.407.833
	2021	3.392.292			3.392.292
	2022				
	2023	267.887.916			267.887.916

\* Administrative fines related to the files reevaluated after judicial decisions are not included.

**Table 12: Administrative fines imposed under the Scope of the Files related to Horizontal and Vertical Agreements (TL)\***

	Year	Horizontal	Vertical	Mixed
Substantive Fines	2019	164.392.558	64.341.001	
	2020	60.030.330	1.596.807.409	1.656.837.739
	2021	687.288.455	557.861.439	2.688.711.711
	2022	375.997.540	124.674.058	878.650.648
	2023	580.008.006	1.192.885.578	26.288.698
Providing missing, false or misleading information/documents under requests for information and/or on-site inspections (Art, 16/ 1- c)	2019	800.079		
	2020	61.468.770		
	2021		7.133.811	
	2022			
	2023	105.688	2.000.974	
Hindering or complicating on-site inspection (16, /1(d))	2019	4.896.131		
	2020		2.550.970	
	2021	110.113.582	10.924.930	
	2022	102.279.456	12.928.292	
	2023			
Relative Administrative Fines (Art, 17)	2019	251.262		
	2020	75.934.394		
	2021	3.392.292		
	2022			
	2023	173.192.597	94.695.320	

\* Administrative fines related to the files reevaluated after judicial decisions are not included.





Member of Presidential Science, Technology and Innovation Board, Dr. Osman COŞKUN delivered a speech on "Future Professions in Digital Transformation" in the Thursday Conference held on January 5, 2023

Within the framework of the promotion of the Competition Authority and competition law, representatives of the Competition Authority met the students of Dispute Resolution Club, which is working under İstanbul University Faculty of Law, on April 27, 2023.



Within the framework of the promotion of the Competition Authority and competition law, information about the basic concepts of competition law and competition expert profession was given to the students of Ankara Hacı Bayram Veli University Faculty of Law.



Associate Professor İsmail SAFİ, Member of Presidential Security and Foreign Policies Board, delivered a speech on "Türkiye's Developing Security and Foreign Policy", in the Thursday Conference on May 11, 2023.



The President of the Commission for Protection of Competition of the Republic of Northern Macedonia, Prof. Vladimir Naumovski made a study visit on June 5, 2023 and a memorandum of cooperation was signed between the two authorities.





Within the framework of the preparations for the Strategic Plan for 2024-2028 period, a workshop was organized on June 8 and 9 in order to take the views and suggestions of external shareholders.



“Leadership Training” for managers was organized on October 2-3, 2023.

Within the framework of the promotion of the Competition Authority and competition law, information about the basic concepts of competition law and competition expert profession was given to the students of Ankara Yıldırım Beyazıt University Faculty of Law on October 26, 2023.



On October 27, 2023, the Competition Authority and Ankara Bar Association no 2 signed a cooperation protocol to regulate the principles of the training on competition law for young lawyers and cooperation.



Within the framework of the promotion of the Competition Authority and competition law, information about basic concepts of competition law and competition expert profession was given to the students of faculties of law of certain universities in Ankara and neighboring cities under the umbrella of Innovative Lawyers Platform on December 05, 2023.



Within the framework of the promotion of the Competition Authority and competition law, information about the basic concepts of competition law and competition expert profession was given to the students of Özyeğin University Faculty of Law on December 01, 2023.



Under the scope of Thursday Conferences, Member of Member of Presidential Security and Foreign Policies Board Prof. Mesut Hakkı CAŞIN delivered a speech on "Changing Balances in the Middle East" on December 07, 2023.

Within the framework of the promotion of the Competition Authority and competition law, information about the basic concepts of competition law and competition expert profession was given to Faculty of Economics and Administrative Sciences of Celal Bayar University Faculty of Law on December 19, 2023.



"Online Advertising Preliminary Sector Inquiry Workshop" was held on December 20, 2023, where the President Mr. Birol KÜLE made the opening speech.



Within the framework of the promotion of the Competition Authority and competition law, information about the basic concepts of competition law and competition expert profession was given to students of Çankaya University Faculty of Law on December 25, 2023.



Uzbekistan Competition Authority Delegation made a study visit on December 25, 2023. Turkish Competition Authority and Competition Promotion and Consumer Protection Committee of the Republic of Uzbekistan exchanged views before signing a Memorandum of Cooperation.

Within the framework of the promotion of the Competition Authority and competition law, information about the basic concepts of competition law and competition expert profession was given to students of Fatih Sultan Mehmet University Faculty of Law on December 25, 2023.



On December 26, 2023, Turkish Competition Authority and Competition Promotion and Consumer Protection Committee of the Republic of Uzbekistan signed a Memorandum of Cooperation during the signing ceremony of 7th Joint Economic Commission chaired by Vice President Mr. Cevdet Yılmaz and Deputy Prime Minister and Minister of Economy and Finance of the Republic of Uzbekistan Mr. Camşid Kuşkarov.

### 3.5. Training and Internship Activities

Turkish Competition Authority has attached significant importance to its training and internship activities since its establishment. In that framework, the Authority has continued its training activities both within and outside the organization for 26 years, and has been providing internship opportunities since 2003.

In 2023, training was provided 20th term assistant experts who took office in October 24, 2022 as well as the other professional staff. In addition and in line with the requests received, training programs were organized for personnel from other public institutions and organizations.

Since 2003, traditionally, Competition Authority has been organizing the internship program for university students, aimed at contributing to the knowledge about competition law and practice and increasing interest in this field. In terms of content, these two-week programs are intended to be closer to an intensive training than a conventional internship. In the first week, an overview on Turkish competition law legislation is provided to the students, enriched with the Competition Board decisions. In the second week, the participants take part in a case study based on a hypothetical file. Training under the aforementioned internship programs are provided by the Competition Authority's professional staff. To date, 3,312 undergraduate and graduate students have participated in the internship program at the Authority, 2,627 of which completed their training and received their certificates. In that framework, the "Competition Law Internship Program with Participation Certificate" for university students was organized five times in 2023 on March 13-24, 2022; March 27 - April 7, 2023; May 8-18, 2023; July 10 - 21 and August 14-25, 2023. A total of 264 university students received their certificates in 2023.

Moreover, the Authority has started a new activity in 2023, which is the certificate program for academia and non-governmental organizations, especially for bar associations in order to contribute to the knowledge about competition law and enforcement and increase interest to this area. This one-week program covers the training on national competition law legislation enriched with Competition Board decisions. Training under the aforementioned certificate programs are provided by the Competition Authority's professional staff. Applied Competition Law Training Certificate Program was organized for Ankara Bar Association attorneys on September 4-8, 2023, on November 27 - December 1, 2023 for Ankara Bar Association no 2 attorneys. A total of 55 attorneys received Applied Competition Law Training Certificate in 2023.

Another activity aimed at university students in 2023 is the "National Internship Program" organized by the Human Resources Office of the Presidency of the Republic, in which the Competition Authority took part as a shareholder. On various dates, seven university students took part in the internship program carried out at the Authority under the umbrella of this project. From the candidates who applied to the National Internship Program, two students studying finance interned at the Economic Analysis and Research Department; three students studying translation and interpretation and English language and literature interned at the International Relations and Competition Advocacy Department; and two students studying forensic engineering and computer and software engineering interned at the IT Department during the summer and fall periods. In addition one student studying Economics interned at the Economic Analysis and Research Department and five students studying computer engineering, computer technologies computer program and management information technologies interned at the IT Department for a short term. The training and internship activities conducted are included in Table 13.

**Table 13: Training and Internship Activities**

Date	Subject of the Training	Provider Institution/ Organization
January 02, 2023	The Fundamentals of Competition Law and Current Competition Law Enforcement in Digital Platforms for Bilkent University Students	Competition Authority
January 4-February 6, 2023	Training on "examining competition law and policy concepts" for professional staff	Ankara Yıldırım Beyazıt University
January 16-17, 2023	Training on Post-Covid-19 Competition Policies	Statistical, Economic and Social Research and Training center for Islamic Countries (SESRIC)
February 1-28, 2023	Data Science with R Application	Prof. Furkan EMİRMAHMUTOĞLU
February 13-18, 2023 February 27-March 3, 2023	Cyber Security Preparation Training and Applied Cyber Security Training	Privia Security Bilişim Danışmanlık hizmetleri A.Ş.
February 21 -23, 2023	Training on "Competition Law and Competition Authority" for the assistant professional personnel who took office in the Capital Market Board	Competition Authority
February 28, 2023	A lecture to introduce the Competition Authority to the Assistant IT Experts who took office as well as to the other personnel at the Information and Communication Technologies Authority within the scope of the "Preparatory Training Program"	Competition Authority
March 13-24, 2023	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
March 17-August 21, 2023	Training on "examining competition law and policy concepts" for professional staff	Ankara Yıldırım Beyazıt University
March 27-28, 2023	Information Security Management System Standard Training (the training necessary for the personnel assigned in TSE/ISO 27001 committee during certificate renewal period)	Arbatek ARGE Yazılım Tic. Ltd. Şti.
March 27-April 7, 2023	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
April 1-May 31, 2023	Training on Time Series Analysis with R Application	Prof. Furkan EMİRMAHMUTOĞLU
April 10, 2023	Training on Information Security Awareness (Training given to Information Technologies Department personnel under Information Security Management System (TSE/ISO 27001))	Arbatek ARGE Yazılım Tic. Ltd. Şti.
April 23-26, 2023	Quantitative Methods for Competition Analysis Course	Barcelona School of Economics Barcelona/ Spain
April 24-29, 2023	Training on Microsoft Windows Server and powershell, which are used in IT system infrastructure, to the 20th term professional personnel who recently took office under the body of Information Technologies Department	İnfopark Bilgi Teknolojileri San. Ve Tic. A.Ş.
May 8-13, 2023	Training on Active Directory and Windows Network, which are used in IT system infrastructure, to the 20th term professional personnel who recently took office under the body of Information Technologies Department	İnfopark Bilgi Teknolojileri San. Ve Tic. A.Ş.
May 8-18, 2023	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
May 22-27, 2023	Training on Exchange Server software, which is used in for IT system infrastructure, to the 20th term professional personnel who recently took office under the body of Information Technologies Department	İnfopark Bilgi Teknolojileri San. Ve Tic. A.Ş.
May 23-26, 2023	Training on cartel investigations, abuse of dominant position, digital markets and competition advocacy for Azerbaijan Competition Authority personnel	Competition Authority



Date	Subject of the Training	Provider Institution/ Organization
June 29-30, 2023	Training on Financial Technologies in Fintech Strategic Analysis Convention, which is organized for Union of Turkish Bar Associations for various public and private sector shareholders	Competition Authority
June 30 - July 4, 2023	Competition Economics Training	Center of Economic Research and Competition Strategy Rhodes/Greece
July 10-21, 2023	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
July 21, 2023	Lecture at the Ministry of Trade's Candidate Assistant Trade Expert Training explaining the legislation of the Competition Authority	Competition Authority
August 14-25, 2023	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
September 4-8, 2023	Applied Competition Law Training Certificate Program for Ankara Bar Association no 2 attorneys.	Competition Authority
October 2-3, 2023	Leadership Training	Psychologist İlknur USLU Psychologist Canan GÜLALIOĞLU
October 2-3, 2023	Training on State Aid for those states under the scope of the enlargement policy and for neighboring countries	European Commission General Directorate of Competition
October 16-20, 2023	Training on the Act no 4054 on the Protection of Competition and secondary legislation for the company staff under Doğu Group's umbrella	Competition Authority
October 30, 2023- February 9, 2024	Basic Training, Preparatory Training and Internship for Candidate Civil Servants who recently took office at the Authority.	Competition Authority
November 08, 2023	KOVAN Public Solutions Meeting Training	Havelsan
November 10, 2023	The Fundamentals of Competition Law Training for Hacettepe University Students	Competition Authority
November 20-24, 2023	Training on Cyber Crimes, Digital Forensics, Digital Evidence and Shadow Copy Processes	Head of Gendarmerie Criminal Department
November 27- December 1, 2023	Applied Competition Law Training Certificate Program for Ankara Bar no 2 attorneys	Competition Authority
December 01, 2023	Training on "Labor Market and relevant decisions" for professional staff	Competition Authority
December 01, 2023	Training on Trendyol Decision For Bilkent University Students	Competition Authority
December 01, 2023 - January 31, 2024	Basic Econometrics with Stata Training	Prof. Hakkı Ozan ERUYGUR
December 4-8, 2023	Mobile Device Examination Training	Head of Gendarmerie Criminal Department
December 08, 2023	Training on Google Local Search Decision For Bilkent University Students	Competition Authority
December 15, 2023	Training on "Settlement" procedure	Competition Authority
December 18-22, 2023	Hard Disk Examination Training	Head of Gendarmerie Criminal Department
Year-round	Foreign language training	Various Private Classes/Universities

### 3.6. Activities of the Legal Advisor's Office

In accordance with Article 55(1) of the Act no 4054, actions for annulment concerning the final decisions of the Board, administrative measures and administrative fines were brought before the Council of State as the court of first instance until 2012. The 13th Chamber of the Council of State was charged with handling the aforementioned actions, but an amendment made in 2012 appointed Ankara Administrative Courts as the court of first instance. An examination of the actions brought against the Board decisions show that most of these were concerning the final decisions taken as a result of investigations.

**Table 14: List of Actions Brought For and Against the Authority between 1997 and 2023<sup>6</sup>**

Nature of the Board Decision	Ongoing	Concluded	General Total
Investigation	217	1187	1404
Preliminary inquiry	56	268	324
First examination	3	86	89
Appeal of Fines	47	63	110
Mergers/Acquisitions	11	49	60
Privatization		33	33
Exemption	8	56	64
Interim Measure	4	13	17
Periodic Fine	6	16	22
Request of Information and Documents		28	28
Annulment of Tacit Rejection	4	10	14
Missing Documents during On-the-Spot Inspections	2	8	10
Against Notification	1	6	7
Joint Venture	1	7	8
Negative Clearance	2	7	9
Withdrawal of the Exemption		2	2
Article 42/ 2	28	66	94
Article 5/ 4	20	10	30
Filing Lawsuit	1	1	2
Other Technical Lawsuits	6	15	21
Interim Measure Periodic Fine		1	1
Appeal of Board Decisions	18	13	31
Right to Access the File	20	17	37
Nullity*		1	1
Intervening Party*		1	1
Debt Enforcement*	73	416	489
Lawsuits Related to Other Administrative Acts*	67	313	380
Nullity Suits*	60	268	328
Lawsuits Related to Other Criminal Acts*	1	13	14
<b>TOTAL</b>	<b>656</b>	<b>2974</b>	<b>3630</b>

\* These actions are not directly related to professional subjects but are continuations of actions concerning professional decisions or other actions.

<sup>6</sup> Decisions annulled by the Council of State and taken as a result of a re-evaluation of the files by the Board were not included in the tables in order to prevent duplication.

**Table 15: List of Actions Brought Against Board Decisions in 2023**

Nature of the Board Decision	Ongoing	Concluded	General Total
Investigation	52	2	54
Preliminary inquiry	4	1	5
Interim Measure	2		2
Right to Access the File	4		4
Article 42/ 2	1		1
Article 5/ 4	3		3
False and misleading information	1		1
Appeal of Board Decisions	5	1	6
Filing Lawsuit	1		1
Nullity Suits*	9	3	12
On-site Inspection	23		23
Annulment of Tacit Rejection	1		1
Other Technical	5		5
Lawsuits Related to Other Administrative Acts*	6		6
<b>Total</b>	<b>117</b>	<b>7</b>	<b>124</b>

\* These actions are not directly related to professional subjects but are continuations of actions concerning professional decisions or other actions.

**Table 16: Distribution of Actions Finalized between 2019 and 2023 According to Outcome**

Court Decision Outcome	2019	2020	2021	2022	2023
Against the Authority	6	24	8	16	10
For the Authority	60	124	40	111	56
Other*	4	7	6	12	7
<b>Total</b>	<b>70</b>	<b>155</b>	<b>54</b>	<b>139</b>	<b>73</b>

\* The "Other" entry includes those cases where the action was considered unfiled or the petition was rejected, as well as dismissals for non-jurisdiction, partial acceptance and partial dismissals, and cases where a decision was not taken due to waiver of claims or other reasons.

Table 16 includes information on how the actions related to professional matters were concluded in the 2019-2023 period. Accordingly, among the actions related to professional subjects finalized in that year, the percentage of those resulting in the Authority's favor was 86% in 2019, 80% in 2020, 74% in 2021, and 80% in 2022. This ratio was 77% in 2023, with 56 out of a total of 73 cases having been finalized in favor of the Authority.

### 3.7. Regulatory Activities

The regulatory activities carried out in 2023 are listed below.

#### 3.7.1. Regulations That Took Effect in 2023

- The Communiqué on the Increase of the Lower Threshold for Administrative Fines Specified in Paragraph 1, Article 16 of the Act No 4054 on the Protection of Competition, to be Valid until 31/12/2023
- Regulation on Active Cooperation for Detecting Cartels

#### 3.7.2. Ongoing Regulation Work

- The Draft Directive on the Procedures and Principles for On-site Inspections

### 3.8. Activities of the Economic Analysis and Research Department

#### 3.8.1. Activities Related to Examinations

In 2023, many numerical/economic analyses were conducted by the Competition Authority in various sectors within the framework of investigations, merger and acquisition examinations and sector examinations, taking advantage of the most recent techniques used in competition economics literature. Numerical methods such as cointegration tests, statistical significance tests, causality analyses, regression analyses and time series econometrics were used in the assessments aimed at establishing whether Articles 4 and 6 of the Act were violated. Moreover, qualitative and quantitative analysis support was provided for the ongoing legislative work. Significant sectors such as healthcare, consumer electronics, e-trade and food are among the sectors where the relevant examinations took advantage of the numerical analyses conducted.

#### 3.8.2. Impact Analysis Report

Measuring the monetary effects of the decisions taken by competition authorities on the consumer help monitor institutional performance under the principles of transparency and accountability, and it also serves an importance purpose in that it clearly shows the role competition law plays in protecting the national economy and consumer welfare. To that end, the Authority started to publish impact analysis reports in 2017, and these reports are still being updated and released to the public at regular intervals. In fact, this study was most recently renewed with an aim to estimate the impact of the decisions taken by the Competition Board in 2021-2022 on consumer welfare. In the Impact analysis report, prepared in consideration of the OECD recommendations as well as the similar studies by various competition authorities around the world, the benefit of the Authority activities to consumers for the relevant period was estimated to be at an average of 26.55 billion TL (1.6 billion USD) annually under a conservative approach, and at 67.32 billion TL (4.06 billion USD) according to the OECD methodology, all with December 2022 prices. In

light of the calculations above, the benefit provided to the economy is 82.06 times the average annual budgetary expenses of the Authority in the relevant period according to the conservative calculation, and it is around 208.07 times the budgetary expenses according to the calculation based on the OECD methodology.

Constituting a significant activity of competition advocacy before the shareholders, it is planned that the impact analysis studies will continue biennially.

### 3.8.3. 2023 Mergers and Acquisitions Overview Report

The 2023 Mergers and Acquisitions Overview Report addresses the merger/acquisition and privatization transactions examined and concluded in 2023 among those notified to the Competition Authority, and aims to summarize the developments with relation to mergers and acquisitions in the relevant year. The Report is intended as one of the significant data sets in terms of the investment climate in Türkiye. The report in question makes the following main observations concerning mergers and acquisitions.

In 2023, a total of 217 merger, acquisition and privatization transactions were notified to the Competition Authority. In 94 of these transactions, the target companies were founded in accordance with Turkish Republic laws. The notified transaction value was around 162.6 billion TL for mergers and acquisitions where the target company was based in Türkiye. Six merger and acquisition notifications were regarded as out of scope because they did not result in a change in control in 2023. In addition, three privatizations were examined in 2023. When privatizations are included, the total transaction value adds up to 163 billion TL.

The total transaction value of the mergers and acquisitions where all of the parties are companies based in Türkiye was around 81.9 billion TL. Foreign investors made investments in Turkish companies in 35 separate transactions. In 2023, in the transactions concerning target companies based in Türkiye, investors based in Germany ranked first with eight transactions and based in Netherlands ranked second with five transactions and based in Luxembourg ranked three with three transactions. Total projected foreign investment involving mergers and privatizations where the Turkish companies were being transferred was 68 billion TL. The highest number of transactions in mergers and acquisitions in Türkiye transactions in 2023 was observed in "generation, transmission and distribution of electricity" and "computer programming, consultancy and related activities" whereas the highest transaction value was in "animal production".

One transaction was taken under final examination in 2023 and the process is still ongoing for the said transaction. The Authority decided on the merger and acquisition transactions notified within an average of 13 days after the date of notification.



### 3.8.4. Training for the Professional Staff

To raise institutional capacity, training programs aimed at the professional staff working under Economic Analysis and Research Department continued in 2023, as well. In this framework, department personnel attended academic program inside the Authority as well as abroad on data science, time series analysis, econometrics through data science and competition economics programs, and endeavored to reflect their experience in the field to the files they were in charge of as well as to their academic studies. The Authority aims to make new trainings for the Department on areas such as advanced time series econometrics, data analytics and machine learning in addition to competition economics and microeconometrics in line with the international developments and provide the Department staff with the opportunity to participate in foreign training programs organized by leading academic institutions in competition economics. Moreover, the Department staff is encouraged to receive graduate education. Three members of the staff are doing their doctorate on economics while four members of the personnel are doing masters on economics or related fields as of the end of 2023.

## 3.9. Activities in the Field of Information Technologies

### 3.9.1. E-Government Application Portal

Work on improving the services offered through the E-Government Application Portal continued. In this context, the following table includes numerical information on the online applications made in 2023

**Table 17: E-Government Application Portal Statistics**

Type of Request	Total Number of Applications Processed (2023)
Third Party Objections or Applications to Provide Information in Merger/Acquisition Applications	14
Merger & Acquisition Applications	223
Acceptance of Responses of the Parties or Third Parties to the Requests for Information in All Types of Files or Studies	1899
Request for the Re-evaluation of the Board Decision under Article 11 of the Administrative Judicial Procedure Law.	23
Negative Clearance/Exemption Applications	15
Leniency Applications	15
Competition Infringement Applications	1034
Request for Attending the Hearing before the Competition Authority	99
Applications to Access the File Submitted to the Competition Authority	19
Requests for Additional Time for Written Pleas in Investigations	44
Submission of First, Second and Third Written Pleas by the Parties in Investigations	266
Commitment Applications (Communiqué no 2021/2)	79
Settlement Applications	159
<b>TOTAL</b>	<b>3889</b>

### 3.9.2. IT Security

In order to manage, monitor and protect institutional information and assets, the Authority took TSE/ISO 27001 Information Security Management System certificate, which is a documented management system based in the risk management approach that aims to ensure operability and continuity and for which the Authority was granted a certificate for a period of three years in 2020, for three years again in April after the main inspection made by Turkish Standards Institute and the process continued.

- The Authority started the activities for compliance with Information and Communication Security Guidelines, which was published by the Presidency's Digital Transformation Office. The first inspection for the said compliance process was completed successfully. The report prepared after the inspection was loaded to BIGDES platform. The activities for compliance with Information and Communication Security Guidelines are ongoing.
- Necessary actions were taken to ensure the physical and cyber security of the information systems. To that end, various products installed to prevent harmful activities and effects from the online environment, ensure the security of the Authority's website and the outward-facing applications, identify and prevent the harmful activity attempts throughout the intranet, prevent harmful software from accessing the servers and clients, prevent access to harmful websites, prevent access of unauthorized computers and mobile devices from accessing the intranet, scan the source codes of software for security flaws, scan the server operating systems for security flaws and make any required updates, were actively used, managed and re-configured when necessary, with the relevant logs being maintained and assessed regularly.
- Cyber Threat Intelligence Software was purchased to prevent loss of reputation as a result of possible attacks by means of detecting the activities of cyber threat actors, blocking cyber-attacks and taking protective measures through analyzing the data collected from various sources (deep/dark web, social media, blogs, forums, etc.)
- In order to make sure that the necessary services are not interrupted in case the Authority's IT infrastructure becomes unusable or in case data is lost for various reasons, the Disaster Recovery Center that was established at a remote data center was maintained.
- The Systems Room housing a significant portion of the IT infrastructure was made physically secure, with the required air-conditioning and active protection against fire hazards ensured.
- A number of phishing attack drills were conducted, using the software procured to increase the awareness of the personnel about these types of attacks which trap users by fake but convincing e-mails. The results of these drills were evaluated to provide online training to the personnel concerned.
- A professional IT security company was hired to offer their infiltration testing services, and the results of the testing were assessed to implement actions that would maximize the level of cyber-security.

- The Authority's website and other services that are accessible from outside were constantly scanned and controlled over the internet so as to maximize their cyber-security.
- An e-mail security application was configured and launched to ensure e-mail security and prevent dangers such as harmful applications, links, etc. that could reach the end user via e-mail. Software for content cleaning and restructuring which removes malicious elements in the documents attached and recreate e-mails was put into use.
- Necessary steps were taken to identify any activity that could pose cyber-security threats for Authority computers and servers, to collect the relevant data and prepare a response. The necessary arrangements were made to ensure that threat-evaluation reports are produced by monitoring and collectively assessing these data over a long period of time.
- Organizational IT security was increased by implementing a system for monitoring and user-authentication for scanning, printing and copying jobs, integrated to the copiers in common use. The file management and archiving system used by the Authority personnel was improved.
- The relevant scanning procedures were regularly conducted to reveal any potential cyber security flaws in the software and operating systems used in the IT infrastructure, and any flaws identified were fixed.
- Systems used to provide cyber-security were periodically tested.
- The required access and authorization operations were performed for databases and shared areas.
- Institutional data were backed-up regularly.

### **3.9.3. Activities for Providing IT Infrastructure to Authority Events**

Infrastructure and application support were provided to the

- Board Meetings,
- Online international organizations,
- Online internship programs
- Online trainings and Authority events

made in 2023.

### **3.10. International Relations Activities**

#### **3.10.1. European Union (EU)**

Since Türkiye is an EU candidate country, the Competition Authority contributes to the 8th Chapter on Competition Policy of the Türkiye Progress Report, prepared annually by the EU Commission. In that framework, the Authority's contribution to the relevant chapter of Türkiye Progress Report was prepared in 2021 as well and shared with the relevant parties in mid-2022. The published Report notes that the competition legislation in Türkiye is largely in compliance with

the EU, emphasizing the Competition Authority's administrative and legislative independence, its sufficient institutional capacity and its efficiency in application.

The Authority also takes part in the Customs Union Joint Committee (CUJC) meetings, which addresses the issues related to the functioning of the Customs Union established with the Türkiye-EU Association Council's Decision no 1/95. In this scope, discussions were made about the recent developments in the field of competition policy and state aid was made during the online 39th Meeting of the CUJC, held on November 27-28, 2023.

Moreover, the Authority also contributes to the meetings of the Sub-Committee no. 2 on Internal Market and Competition, which was established with the Association Council Decision no 3/2000 in order to monitor the developments related to the priorities of the accession partnership and alignment of the legislation. Accordingly, representatives from the Authority attended the preparatory meeting of the Sub-Committee no. 2 on Internal Market and Competition held on November 17, 2022, as well as Sub-Committee no. 2 on Internal Market and Competition's online meeting hosted by the EU Commission on December 15-16, 2022.

As a candidate country for the EU, Türkiye both benefits from the Instrument for Pre-Accession Assistance (IPA), which includes financial assistance for candidate countries, and participates in the Union Programs and Agencies, which were established to encourage cooperation between candidates on EU policies. In accordance with the Presidential Circular no. 2019/20, the EU Programs Council held on February 4, 2020 under the coordination of the Directorate for EU Affairs decided that Working Groups should be established for each EU Program that concern the public institutions during the period of 2021-2027. Within that framework, the Authority is part of the "Single Market Working Group".

### 3.10.2. Multilateral Relations

#### 3.10.2.1. Organization for Economic Co-operation and Development (OECD)

The representatives of the Authority participated in the 142nd meeting of the OECD Committee on Industry, Innovation and Enterprise (CIIE), which was made in Paris on April 13-14, 2023.

The representatives of the Authority attended the meetings the OECD Competition Committee and the connected "Working Party No. 2 on Competition and Regulation and "Working Party No. 3 on Cooperation and Enforcement", held in Paris on June 12-13, 2023, and 140th meeting of OECD Competition Committee," held afterwards on June 14-16, 2023 within the premises of OECD.

Under the scope of the European Commission's BRIDGE project, the Authority participated in the Workshop on "Using Microdata For Start-Up And Venture Capital Analysis: Resources, Challenges and Opportunities", organized by OECD Committee on Industry, Innovation and Enterprise on June 29, 2023.

The Director of OECD Regional Center for Competition in Hungary (GVH-OECD RCC), Ms. María CANEDO and the President of the Competition Authority Mr. Birol KÜLE held an online meeting on October 13, 2023, where possible cooperation opportunities were discussed.



The representatives of the Authority participated in the meetings of "Working Party No. 2 on Competition and Regulation" and "Working Party No. 3 on Cooperation and Enforcement", which were connected to the OECD Competition Committee, as well as 141st Meeting of the Competition Committee held in Paris on December 4-6, 2023 and "Global Competition Forum", organized on December 7-8, 2023.

The representatives of the Authority made a presentation on "Digital Tools, Use of Big Data and Artificial Intelligence" in the seminar on on-site inspections made by OECD Regional Center for Competition in Hungary (GVH- OECD RCC) on December 12-14, 2023 in Budapest under the scope of the cooperation between the Competition Authority and GVH-OECD RCC.

### **3.10.2.2. United Nations Conference on Trade and Development (UNCTAD)**

The Authority sent representatives to the 7th meeting of UNCTAD's "Intergovernmental Group of Experts on Consumer Law and Policy" held in Geneva on July 3-4, 2023, as well as to the 21st meeting of "Intergovernmental Group of Experts on Competition Law and Policy", held on July 5-7, 2023.

### **3.10.2.3. International Competition Network (ICN)**

ICN is a platform created by competition authorities to facilitate mutual exchange of information, share best practices, and build opinions in the field of competition law and policy. One of the founders of the ICN, the Competition Authority is currently serving as the co-chair of Unilateral Conduct Working Group together with France, Spain and Brazil.

Within our duty as the co-chair of Unilateral Conduct Working Group, the webinar "Tying and Bundling in Digital Era" coordinated by the Turkish Competition Authority was made on December 20, 2023.

Moreover, the Authority attended "2023 ICN Annual Conference" hosted by Spanish National Markets and Competition Commission (CNMC) in cooperation with ICN in Barcelona on October 18 – 20, 2023.

The representatives of the Authority also participated in online conferences and seminars organized by ICN working groups throughout the year and answered surveys as well as information requests sent by ICN working groups.

### **3.10.2.4. Istanbul Competition Forum (ICF)**

Türkiye has been endeavoring to serve as a leader to the countries in the region in every respect, and as an outcome of this goal in the field of competition law and policy, has created an organization with high levels of participation under the name ICF. The goal of ICF is to provide assistance to the countries in the same region in the field of competition law and policy, and to improve cooperation between these countries.

UNCTAD's Competition and Consumer Policies Branch have made contributions to the effort, in order to ensure that ICN reaches its intended goals. Preparations were made to organize 2023 Annual ICF meeting in İstanbul; however, due to the earthquake disaster on February 6, 2023 in our country, the meeting was postponed.



### **3.10.2.5 Statistical, Economic and Social Research and Training center for Islamic Countries (SESRIC)**

In line with the recommendation of Statistical, Economic and Social Research and Training center for Islamic Countries, which is a subsidiary organ of Organization of Islamic Cooperation (OIC), made during the 39th COMCEC Follow-up Committee Meeting hosted by Türkiye in Ankara on May 23-24, that studies in competition law and policy between competition authorities and relevant authorities that are responsible for competition in OIC countries be increased and expanded, the Authority participated in the video conference on November 27, 2023.

### **3.10.2.6. International Training Seminars**

The representatives of Authority participated in "Quantitative Methods for Competition Analysis Course" given by Barcelona School of Economics under the scope of Competition, Markets and Regulation Courses in Barcelona on May 23-26, 2023.

Within the scope of the Bilateral Cooperation Protocol signed in Baku on February 25, 2020, a training seminar on "cartel investigations, dominant position, digital markets and competition advocacy" was given on May 23-26, 2023.

The representatives of the Authority attended the Competition and Regulation European Summer School and Conference in Rhodes between June 30 and July 4, 2023.

The Authority attended the seminars on "Antitrust and Cartel Procedures/TFEU Article 101 and 102, EU Merger Regulation no 138/2004/Merger Procedures, State Aid Procedures/Aid Concept and Compliance Evaluation", which was organized for the countries within the scope of the enlargement policy and neighboring countries in Brussels between October 2 and 3, 2023.

### **3.10.2.7. Other International Meetings**

The other international meetings attended by the Authority personnel are as follows:

Fourth Arab Competition Forum on "Abuse of Dominant Position in Digital Markets" organized in Riyadh on May 23-24, 2023 with the cooperation of UNCTAD, UN-ESCWA (Economic and Social Commission for Western Asia), OECD and General Authority for Competition of the Kingdom of Saudi Arabia. A presentation was made.

"Seventh Competition Policy Conference" and "ICN Chief Economist/Senior Economist Workshop" organized in Bergen on respectively May 30-31, 2023 and June 1-2, 2023.

Workshop on "Using Microdata For Start-Up and Venture Capital Analysis: Resources, Challenges and Opportunities" and the panel on "wandering in the startup data area for better policies" in Paris on June 28 - 30, 2023.

"Tashkent International Competition Conference on Competition law enforcement and consumer protection in digital markets" organized by Competition Promotion and Consumer Protection Committee of the Republic of Uzbekistan in Tashkent on July 6 – 8, 2023.

Workshop on "Competition Policy, Trade and Development", organized by WTO on July 10-12, 2023 in Geneva, which aimed to raise awareness about competition and trade policies supporting economic development in the framework of TRIPS and GATS agreements as well as GPA and which addressed competition policy chapters in FTAs. A presentation was made.

"2023 Competition Day", which was organized by Mexico Federal Economic Competition Commission (COFECE) on September 7-8, 2023, in Mexico City on the occasion of the 30th anniversary of Federal Economic Competition Law and the tenth anniversary of COFECE.

"International Conference on Competition and Consumer Protection" organized by Georgian National Competition Agency, the National Bank of Georgia, the National Energy and Water Supply Regulatory Commission of Georgia and the Communications Commission on November 16 - 18, 2023.

The conference organized by Albania Competition Authority in Tirana on November 23-24 for "the 20th anniversary of Albanian Competition Law."

The Conference on "Dynamic Competition in Dynamic Markets: Opportunities and Challenges of Competition and Privacy Laws in MENA and Türkiye" hosted by İstanbul Bilgi University in cooperation with Competition Policy International (CPI) on October 11-12, 2023. A presentation was made.

### **3.10.3. Bilateral Relations**

External Relations and Competition Advocacy Department attended the first meeting of Customs Sub-committee on August 28, 2023 and the first meeting of the Joint Committee on August 29, 2023 under the scope of free trade agreements to which our country is a party within the framework of commercial relations.

The Turkish Competition Authority and the Commission for Protection of Competition of the Republic of Northern Macedonia signed a memorandum of cooperation on June 5, 2023.

The Turkish Competition Authority participated in the meeting of Türkiye-Uzbekistan Intergovernmental Joint Economic Commission on December 26, 2023 in Ankara and online technical meetings made beforehand. As a result of those meetings, the Turkish Competition Authority and Competition Promotion and Consumer Protection Committee of the Republic of Uzbekistan signed a Memorandum of Cooperation on December 26, 2023.

The Competition Authority continued correspondence for signing memorandums of understanding with Pakistan, Monte Negro, Gambia and Hungary.

In addition, the Turkish Competition Authority signed a "Cooperation Protocol" with Turkish Industry and Business Association on May 2, 2023 to develop cooperation and carry out exchange of information and coordination for contributing to the aims of improving investment and competition environment as well as economic growth in our country.

The Turkish Competition Authority signed a "Cooperation and Information Sharing Protocol" on October 26, 2023 with Personal Data Protection Authority.

One of the leading news organizations in the field of competition law and policy, Brussels-based MLex published its exclusive interview with the President Birol Küle on October 30, 2023

The Turkish Competition Authority signed a “Cooperation Protocol” with Boğaziçi University on December 22, 2023 in İstanbul. According to the Protocol, “Symposium on Current Developments in Competition Law”, which is important for competition law enforcement, will be organized jointly by the Competition Authority and Boğaziçi University Innovation and Competition-oriented Development Studies Research and Application Center.

### **3.10.4. New Periodical of the Turkish Competition Authority titled “Competition Newsletter”**

The Turkish Competition Authority's new quarterly periodical, titled “Competition Newsletter” was published first on November 2, 2023.

With the knowledge and experience it accumulated through a period of more than 25 years, the Authority has led landmark cases and made significant contributions to the economic welfare of Türkiye. In line with the Authority's commitment to share its experience and better express its enforcement to its shareholders, the Competition Newsletter aims to highlight the main activities of the Authority.

### **3.10.5. Other Activities**

In addition to the activities listed above,

In 2023, a total of 15 written questions from the Grand National Assembly were received through the related ministry and were answered either directly or in coordination with the relevant department.

Opinion requests received from the Permanent Turkish Representation at the OECD, various ministries, other public institutions and from the Office of the Legal Adviser were answered either directly or in coordination with the relevant departments.

Translation/interpretation needs of the departments were met within the bounds of possibility.

Surveys, information, document and interview requests from international associations and/or publications were addressed.

The questions raised in Trade Policy Review meeting of the WTO on November 13-15, 2023 were answered.

The Authority participated in the workshop made in İstanbul on October 3-6 concerning highway, railway, maritime and airline sectors within the scope of the Analysis of the Transport Legislation in Türkiye in the Process of Harmonization to EU Acquis - ATLAS Project, under “the Evaluation of Legal Compliance in the Transport Sector” event.

The Authority participated in the 27th Consumer Council held under the body of the Ministry of Trade on September 7, 2023.

A letter signed by the President of the Authority Birol KÜLE celebrating the month of Ramadan was sent to the competition agencies of Islam countries.

Some recent important Competition Board decisions were translated into English and published on the Authority's website.

### 3.11. Activities within the Framework of Competition Advocacy and Institutional Relations

#### 3.11.1. Sector Inquiries

Beside the power of supervising markets granted to the Competition Board by the Act no 4054, among the most important functions of the Competition Board in terms of competition advocacy are the studies known as sector inquiries, aimed at identifying and solving structural and/or behavioral competition issues related to a part or whole of a specific sector or market.

Within that framework, as of the end of 2023, there are ongoing sector inquiries on

"Online advertising"

"Pharmaceuticals"

"Fuel"

"Container transportation via liners and container port services market"

"Automotive"

"Mobile Ecosystem"

"Earthquake area"

"Red meat"

Sector inquiries completed by the Turkish Competition Authority in the last five years are listed below.

Completed Sector Inquiries	
Expo Business	2018
Music	2019
Financial Technologies in Payment Services	2022
Fresh Fruit and Vegetables	2022
E-Marketplace Platforms	2022

Ongoing Sector Inquiries in 2023	
Online Advertising	
Pharmaceuticals	
Fuel	
Container Transportation via Liners and Container Port Services Market	
Automotive	
Mobile Ecosystem	
Earthquake area	
Red meat	



Table 18: Sector Inquiries Launched/Ongoing in 2023

Sector under Inquiry	Reason for the Inquiry	Planned Completion Date
<b>Fuel Sector</b>	The fuel sector inquiry was launched in response to the need to identify any existing or potential market failures in the fuel sector and suggest solutions for these problems. The relevant sector inquiry intends to clarify the structure and functioning of all of the stages of the fuel market as well as the competition problems in the market, and to make suggestions for any steps that can be taken with a proactive approach in order to establish effective competition in the market concerned.	<b>January 2024</b>
<b>Online Advertising Sector</b>	The Online Advertising Sector Inquiry was launched in order to closely monitor the national and international current developments in the online advertising field, which gathered significant momentum in the recent years as a result of rapid improvements in IT technologies and the widespread use of the internet, so as to determine any behavioral and/or structural competition problems in the sector and develop solutions/policy suggestions aimed at dealing with these problems.	<b>December 2024</b>
<b>Pharmaceuticals Sector</b>	The pharmaceuticals sector inquiry aims to scrutinize the structure and functioning of the sector in order to identify the factors affecting competition in the sector, and to suggest solutions for dealing with competition problems in the sector.	<b>January 2026</b>
<b>Container Transportation via Liners and Container Port Services Market</b>	Marine transportation sector can become the subject of competition law due to the relationships between liners, ports and other service providers. Particularly in the recent period, the disarray that emerged in the liner transportation fees and its relation to the problems in the global market brought to the forefront by the COVID-19 pandemic required a detailed examination of the structure and functioning of the sector. Consequently, the sector inquiry aims to provide a better understanding of the dynamics of liner transportation as well as its integrated supplementary market of port services.	<b>December 2024</b>
<b>Automotive Sector</b>	The motor vehicle sector inquiry was launched with an aim to identify the factors affecting competitive market structure in the automotive sector and the structural problems therein, and to provide suggestions for their solution. The goal is to address the supply and provision problems of the sector, taxation and pricing policies for the vehicles, distribution channels and after-sales services in the sector, and digitalization/electric vehicles in light of recent technological developments.	<b>December 2024</b>
<b>Mobile Ecosystems Sector Inquiry</b>	While access to internet is increasing throughout the world as well as in our country, mobile smart devices are the first choice for internet access. Therefore, mobile smart devices that have internet connection like smart phones and tablets play an important role in daily life by enabling access to a wide range of products, contents and services. Since users can access many products and services via mobile devices, the advantages of a competitive and dynamic mobile devices and mobile device software market are important for consumers and businesses. Consequently, any development in the markets for elements that make up mobile systems may lead to significant effects on the economy and the society. The benefits of this highly growing sector should be protected so that a competitive environment can be established. To this end, it is important to examine the characteristics of mobile ecosystems and identify (possible) pro/anti-competitive effects as well as possible failures and concerns in those markets through a comprehensive sector inquiry.	<b>December 2024</b>
<b>Earthquake area</b>	A sector inquiry was initiated in order to address the commercial problems created by the devastating effect of the earthquake in the eleven cities, which were affected by Kahramanmaraş-centered earthquake, from the perspective of competition law; to establish and protect the competitive structure in the production and supply of the necessary materials for restructuring the earthquake area as well as to prevent undertakings from engaging in anticompetitive activities by turning this period to advantage. Another aim of the inquiry is to provide the necessary guidance for the competitive design of the collaborations that can be made between undertakings during the redevelopment and construction of the region.	<b>December 2026</b>
<b>Red meat</b>	The inquiry was initiated in order to provide both suggestions regarding red meat sector in general and competition policy recommendations for identifying the structural problems encountered by the players in the sector in detail, developing solutions for the said problems and improving current competitive conditions.	<b>November 2025</b>



### 3.12. Publications

#### 3.12.1. Competition Journal



Beginning publication in 2000, the Competition Journal is a refereed periodical published semiannually by the Turkish Competition Authority. The Competition Journal, which was published in July 2023 and which included three articles, includes original articles in Turkish or English in the fields of competition law, policy and industrial economics.

Articles submitted to the e-mail address [rekabetdergisi@rekabet.gov.tr](mailto:rekabetdergisi@rekabet.gov.tr) for publication in the Competition Journal are first assessed for article writing rules and then forwarded to two expert referees for evaluation.

For each article published in the Competition Journal, a royalty payment is made and 10 journals are sent to the author, free of charge.

#### 3.13. Strategic Plan Performance Monitoring and Assessment Activities

Strategic Plan performance monitoring and assessment activities are carried out under the Act no 5018.

The Strategic Plan for 2019-2023 determines the goals and targets of the Authority based on a total of four axes. Respectively, these are the application of the competition law, competition advocacy, policy development, and institutional capacity. Within those four axes, the improvements to be made during the duration of the Plan and the goals and targets which would realize those improvements are identified (see Section 2.1. Purposes and Objectives).

The monitoring and assessment process aims to provide institutional learning, and thereby ensure constant optimization in the activities. It is of vital importance for the success of the Plan to periodically monitor and assess the degree of achievement of the institutional goals and targets set out in the Strategic Plan. Strategic plans serve as a roadmap for public institutions to find better and more rational solutions to their problems within the dynamic ecosystem in which they exist, and they must be reviewed in light of the information acquired as a result of the monitoring and assessment activities. Monitoring and assessing a strategic plan is an indispensable element for both the successful implementation of the said plan, and in terms of compliance with the principle of accountability.

Monitoring is an iterative process in which qualitative and quantitative data is gathered and analyzed constantly and systematically both before and during the implementation, in order to keep track of the progress made in comparison to the goals and targets. Outcomes of the goals and targets are frequently monitored via performance indicators and periodically reported for the evaluation of the administrators. Carefully carried out by the Competition Authority as well,

the monitoring process allows the Authority to evaluate whether the route set out in the Strategic Plan is being followed. The assessment, on the other hand, is a detailed examination conducted to see to what extent ongoing or completed activities helped in reaching the goals and targets and to what extent they contributed to the decision-making process. To that end, strategic plans which are monitored periodically may be revised after the evaluation, if necessary.

In that context, the Competition Authority conducted an integrated assessment of the activities carried out in 2023 within the framework of the 2019-2023 Strategic Plan, based on the goals and targets determined in line with the strategic axes. During the 2023 monitoring and assessment period, the performance score of the Competition Authority has been 100% for every goal and target under each axis of the Strategic Plan.

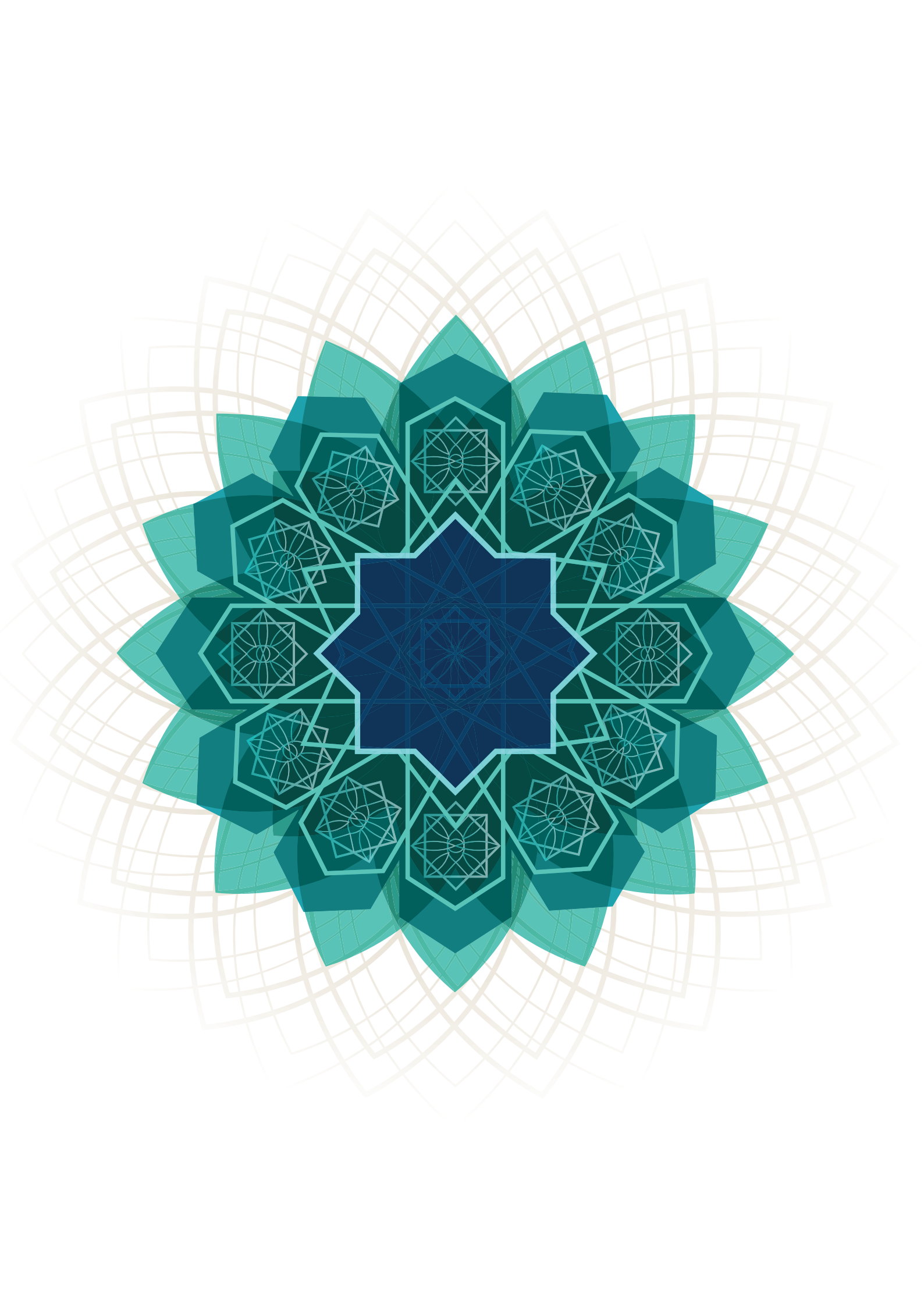
### 3.14 Thursday Conferences

Table 19 lists the “Thursday Conferences” organized by the Authority in 2023.

**Table 19: Thursday Conferences**

Date/Venue	Relevant Institution/Person	Event Subject / Participant
January 05, 2023	Competition Authority	“Future Professions in Digital Transformation”, Dr. Osman COŞKUN, Member of Science, Technology and Innovation Board of the Presidency of the Republic of Türkiye
May 11, 2023	Competition Authority	“Türkiye’s Developing Security and Foreign Policy”, Associate Professor İsmail SAFİ, Member of Presidential Security and Foreign Policies Board
December 07, 2023	Competition Authority	“Changing Balances in the Middle East”, Prof. Mesut Hakkı CAŞIN, Member of Presidential Security and Foreign Policies Board
December 29, 2023	Competition Authority	“Turkish Economy and Business Opportunities”, Hakan YURDAKUL, Member of Presidential Economic Policies Council





# GENERAL ASSESSMENT



#### 4. GENERAL ASSESSMENT

An examination of the activities of the Turkish Competition Authority in 2023 shows that a total of 370 files were finalized in the relevant year. Looking at the subject distribution of the 370 files concluded by the Board in 2023, 145 of these files were about competition infringements, eight were about exemption/negative clearance applications, and 217 were about merger/acquisition/joint venture/privatization transactions. This distribution can be compared to that of 2022, revealing an increase in the number of competition infringement cases from 78 to 145, a decrease in merger/acquisition/joint venture/exemption files from 245 to 217 and a decrease in the number of negative clearance/exemption files from 19 to eight. In that sense, there is an increase in the number of files concerning competition infringements among the total distribution of files finalized in 2023.

In 2023, the number of files finalized as a result of preliminary inquiry and investigation processes conducted in response to claims of Article 4 and/or 6 infringements was 145. In 2023, food industry, machinery industry and healthcare services were the sectors with the highest number of competition infringement examinations. These three main sectors have a share of around 75% within the competition infringements cases finalized by the Competition Board in 2023.

Of the 145 files finalized concerning claims of Article 4 and/or 6 infringements, 69 were examined ex officio in 2023. In other words, around 48% of the finalized competition infringement cases in 2023 consist of ex officio examinations. Of the competition infringement cases examined ex officio, 68 concerned Article 4 violations and one concerned Article 6 violations. Examining the share of ex officio competition infringement files launched in 2023 within all competition infringement files show that the Board has been able maintain its proactive approach, similar to the previous year.

A look at the distribution of the competition infringement cases concluded in 2023 according to the related Article of the Act shows that 121 of them concerned claims of Article 4 infringement, 18 concerned claims of Article 6 infringement, and 6 concerned claims of Article 4 and 6 infringement. Within that framework, the share of the files claiming Article 4 infringement within the total number of competition infringement cases was higher than that of the files claiming Article 6 infringement in 2023, similar to the previous five-year period. Of a total of 127 files claiming Article 4 infringement, 55 concerned horizontal agreements while 69 concerned vertical agreements. Three files concerned both vertical and horizontal agreements.

A look at the Competition Board's decisions about competition infringements reveals that out of 145 decisions, 28 decisions were taken as a result of preliminary inquiry and 117 were taken as a result of investigations. In nine decisions taken at the end of investigations, allegations were rejected whereas in 12 files, administrative fines were imposed to undertakings.

It is understood that only two of the eight exemption/negative clearance applications were finalized by the Competition Board with negative clearance decision. Of the six exemption applications finalized in the year in question, four was concluded with the Board deciding that the agreement in the application could benefit from individual exemption. An application was concluded with an exemption subject to conditions and one file was finalized with an assessment of block the exemption. According to the distribution of exemption/negative clearance files, automotive and vehicle sector was leading.

In 2023, 217 merger and acquisition applications were finalized, which shows a decrease of around 12% in the number of finalized decisions in comparison to 2022. Of the aforementioned 217 applications, around 64% concerned acquisitions, and around 34% concerned the establishment of joint ventures. In addition, two mergers and three privatization transactions were finalized in 2023. In that framework, it is possible to say that, in the last five years, there has not been a significant change in the distribution of the merger and acquisition transactions with relation to their nature. A look at the sectoral distribution of the said applications reveals that information technologies and platform services, chemistry and mining, healthcare services and automotive and vehicles services sectors saw the largest number of M&A transactions, with these four sectors having a share of around 47% in total applications. It can be seen in the outcomes of the Board decisions that 184 transactions were authorized without conditions, and three were authorized subject to conditions. Thirty transactions were found to be out-of-scope or below the threshold.

Within the context of the files finalized in 2023, undertakings found to have infringed competition were imposed a total of 1,900,675,663 TL in administrative fines, in accordance with Article 16(3) of the Act. Out of the abovementioned amount imposed on the undertakings, 1,799,182,282 TL was for Article 4 infringements and 101,493,381 TL was for Article 6 infringements. In addition 267,887,916 TL was imposed in administrative fines for preventing on-site inspections in 2023.

An examination of the sectoral distribution of the fines imposed under Article 16(3) for the infringement of competition law rules in 2023 shows that the highest amount of administrative fines were imposed in the food industry sector, with a total of 698.8 million TL. This is followed by machinery industry with administrative fines of 689.7 million TL and Other sector with 185.5 million TL. Administrative fines imposed on these three sectors comprise around 83% of the total fines imposed for competition infringements in 2023. In 2023, 73 of the lawsuits filed against the Board decisions on professional matters were concluded. Of these lawsuits, 56, i.e. 77% were concluded in favor of the Authority. As of the end of 2023, there are ongoing sector inquiries within the framework of competition advocacy activities, concerning "Online Advertising," "Pharmaceuticals," "Container Transportation via Liners and Container Port Services," "Automotive," "Mobile Ecosystem," "Earthquake Area" and "Red Meat" markets. The relevant inquiries are deemed to be very important for identifying the competition issues in the related fields and for finding proactive solutions to establish competitive functioning of the relevant industries. One pillar of

competition advocacy activities are comprised of events aimed at promoting competition law and the functions of Authority. Within this framework, in 2023 the Authority supported in-service training programs of various public agencies, and participated online in various training programs and meetings with the cooperation of other public institutions, non-governmental organizations and universities. Another activity carried out within the framework of competition advocacy is rendering opinions to public institutions and organizations. Essentially, these opinions serve to examine a planned legislation or a planned practice by the relevant agency or organization from a competitive perspective and, to the extent possible, to ensure that a competitive perspective is included in the relevant legislation text or practice.

In 2023, economic analysis and research activities made important contributions to the assessment of various cases through the econometric analyses conducted, including the investigation launched on some undertakings operating as producers/suppliers and retailers within the fast moving consumer goods sector, the conclusions for which were previously shared with the public. Significant sectors such as healthcare, consumer electronics, e-trade and food are among the sectors where the relevant examinations took advantage of the numerical analyses conducted. Additionally, the 2023 Mergers and Acquisitions Overview Report and the Impact Analysis Report aiming to determine the effect of the Competition Authority activities on consumer welfare within scope of the economic analysis and research activities were prepared. According to the 2023 Mergers and Acquisitions Overview Report, of 217 transactions examined by Competition Authority in 2023, 94 involved target companies that were established according to the laws of the Republic of Türkiye. The notified transaction value was around 162.6 billion TL for mergers and acquisitions where the target company was based in Türkiye. Six merger and acquisition notifications were regarded as out of scope because they did not result in a change in control in 2023. In addition, three privatizations were examined in 2023. When privatizations are included, the total transaction value adds up to 163 billion TL. In all transactions, the total transaction value of the mergers and acquisitions where all of the parties were companies based in Türkiye was 81 billion 924 million TL. Foreign investors made investments in Turkish companies in 35 separate transactions. In 2023, in the transactions concerning target companies based in Türkiye, investors based in Germany ranked first with eight transactions and based in Netherlands ranked second with five transactions and based in Luxembourg ranked three with three transactions. Total projected foreign investment involving mergers and privatizations where the Turkish companies were being transferred was 68 billion TL. The highest number of transactions in mergers and acquisitions in Türkiye transactions in 2023 was observed in “generation, transmission and distribution of electricity” and “computer programming, consultancy and related activities” whereas the highest transaction value notified for a single transaction was in “animal production”. In 2023, the Competition Authority decided on the merger and acquisition transactions notified within an average of 13 days after the date of notification.

As in the previous years, the Authority attached great importance to improving international relations in 2023. In this context, representatives participated in various multilateral meetings, international conferences and international training seminars, including those organized by the European Union, Organization for Economic Co-operation and Development, United Nations Conference on Trade and Development, International Competition Network.

In terms of the training activities, the Authority continued its work on the training programs aimed at the assistant experts who took office as well as for other professional staff. Another part of the training activities was the "Internship Rally" program coordinated by the Human Resources Office of the Presidency of the Republic and conducted through the participation of Ministries, connected, related, associated, and coordinated institutions and organizations, as well as volunteering employers from the private sector, which was attended by six university students. Furthermore, a total of 264 university students qualified for a certificate in 2023 under the scope of the "Competition Law Internship Program with Participation Certificate," which is being offered for university students by the Authority since 2003.

As a result, in 2023, the Competition Authority continued to carry out all of its functions in terms of its primary duty of applying the competition law rules, continued its competition advocacy activities, and had a quite busy and productive year under the aforementioned conditions. Improving the institutional capacity continued to be a priority target in 2023, with special attention placed on conducting an institutional self-evaluation based on past experiences, in order to ensure better outcomes in the future. As in the previous years, the Authority monitored the developments in the national and international markets, the relevant literature and country practices in 2023. Within the framework of the know-how acquired as a result of such studies and the Strategic Plan for 2019-2023, the Turkish Competition Authority will continue with its operations in the forthcoming period, with an aim to carry out its mission and achieve its vision.



## 5. EVALUATION OF ORGANIZATIONAL CAPABILITY AND CAPACITY:

### Internal and External Analysis

The Turkish Competition Authority endeavors to carry out the functions and responsibilities it has been charged with by law, working with external factors such as the political and economic environment it experiences, and with the internal factors including the organizational structure, human resources and institutional culture. The strengths and the improvable aspects of the internal organizational environment and the current opportunities and challenges of the external environment are listed below.

#### 5.1. Strengths

- High credibility of the Authority
- Professional expertise and independence of the rapporteurs
- Pool of qualified human resources
- Feeling of professional belonging

#### 5.2. Improvable Aspects

- Insufficiency of the evidence-gathering powers
- Need for improving the economic analysis capacity
- Inability to act in a sufficiently proactive manner

#### 5.3. Opportunities

- The emphasis on “competition” in the higher policy documents
- Increase in the general awareness for the indispensability of competition
- Proliferation of competition law practices around the world
- Continuing economic growth

#### 5.4. Challenges

- Technological developments making it easier to hide competition infringements
- Anti-competitive provisions in other legislation
- Increase of concentrations in the markets
- Increase in the general level of prices in the markets for goods and services
- Misinformation in the public concerning the mission of the Turkish Competition Authority





## 6. RECOMMENDATIONS AND PRECAUTIONS

The Strategic Plan for the 2019-2023 period, published in 2019 by the Authority, re-establishes the mission and vision of the Competition Authority under the guiding light of the previous institutional experience, assessments on the developments in the international arena, and the awareness of the changes emerging in the markets as well as in the ways of doing business caused by developing technology and increasing digitalization.

New goals and targets have been set towards implementing the mission and vision determined under the three main pillars of competition law enforcement, competition advocacy and policy development. Another pillar is determined to be the institutional capacity which will allow the Competition Authority to reach these goals and targets, and it has been made the subject of various other goals and targets to complement the aforementioned pillars.

In that context, the Authority will continue to work its hardest to implement the amendments made to the Act no 4054, together with the relevant secondary regulations. The full implementation of these amendments will improve the evidence-gathering capabilities of the Authority, facilitate alignment with international developments and allow timely and proper intervention in changing markets, and thus will increase the efficiency of competition law enforcement.

Ensuring that the Competition Authority and competition law are recognized and embraced at the level of individuals, agencies and sectors and that this recognition is reflected in the behavior of the shareholders will ultimately contribute to the development of competitive markets in our country. At this juncture, it is important for the Turkish Competition Authority to continue its competition advocacy activities in a manner that is as inclusive as possible.

Another area that will constitute an important portion of the Authority's efforts in the future is the development of policies to properly direct the resources of the Authority. To that end, it is particularly important to determine distorted markets and/or markets with a high potential of competition infringements. Therefore, the Authority has already put into its agenda the actions it will take in order to identify these areas in the forthcoming period.

Lastly, the TCA is well aware of the fact that it will achieve its goals and reach its targets at a satisfactory level only if it has sufficient institutional capacity and continuously develops that capacity to meet the novel requirements it will face. To that end, the Authority will continue to organize studies and activities to improve its human resources in terms of knowledge, ability and capacity through domestic and overseas training programs, seminars and conferences.

As an agency which has earned the trust of all concerned shareholders before the public by its correct decisions, its transparent and inclusive sense of work, and its qualified human resources, the Turkish Competition Authority will put the utmost effort into maintaining its status in the future and develop competition law practices in our country.





Global Equities	Global Bond	MSCI EM	S&P 500 index
4.3	2.5	2.5	4.5
2.4	4.4	1.8	2.8
2	2	3	5

