



## Turkish Competition Authority's Current Approach towards the Potential Anti-Competitive Conducts during the COVID-19 Outbreak

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As the COVID-19 pandemic has become the main concern of individuals and market players all around the world, its impact over the businesses and daily life has also been observed by the Turkish government and its authorities, including the Turkish Competition Authority (“**Authority**”). At the current stage, there are many unknowns about how things would unfold for Turkey and the rest of the world in terms of this global pandemic, and its consequences on the work of the administrations. Even though there are fewer confirmed cases of COVID-19 in Turkey as compared to the Western European countries and the UK, certain sectors have already been affected due to the bulk consumption of food and commodities by individuals for maintaining social distancing.

In light of the recent developments, the Authority published an announcement related to the excessive pricing practises observed in the food markets, particularly fresh fruits and vegetables market during the COVID-19 outbreak on its official website on March 23, 2020.<sup>1</sup> The Authority highlighted that these price increases and the undertakings taking part in such practices will continue to be monitored in scope of the Authority’s duty to protect the consumer welfare and any conduct that distorts competition, especially in these days where the social cooperation is needed, will be restrained. In this regard, the Authority emphasized that the maximum administrative monetary fines will be imposed on all actors, i.e. both individuals and players, including manufacturers, intermediaries, carriers and final sellers, which engage in any anti-competitive conduct in the relevant markets pursuant to the Law No. 4054 on the Protection of the Competition (“**Law No. 4054**”).

Two days following this public announcement, on March 25, 2020, the President of the Turkish Competition Board (“**Board**”), Mr. Birol Küle’s press release has also been published at the official website of the Authority.<sup>2</sup> Mr. Küle expressed his concerns on the fact that the

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<sup>1</sup> See, <https://www.rekabet.gov.tr/tr/Guncel/kamuoyuna-duyuru-3b18d865266dea11811700505694b4c6>

<sup>2</sup> See, <https://www.rekabet.gov.tr/tr/Guncel/rekabet-kurumu-baskani-birol-kule-nin-ya-19def560896eea11811700505694b4c6>

public announcement of March 23, 2020 has not been well-adopted by the actors in the food market. It is once again highlighted that the Authority monitors the dynamics in the relevant market and prices within the supply chain; and it has been observed that there are no price increases on the production level (*i.e.* farms and greenhouses), no decrease in demand, no increase in the costs including the fuel, storage and labour, which would require such price increases in the food markets. To that end, it is assessed that the actors on different levels are creating an “*artificial shortage*” through disproportionate price increases. Mr. Küle pointed out that these practices will be prioritized and sanctioned; and the relevant fines and the administrative processes will be directly proportionate to the severity of the crisis. Mr. Küle has reminded that the monetary fine rates are at the discretion of the Board and the undertakings could face high amount of administrative monetary fine (the upper threshold of administrative monetary fine is 10% of annual gross revenues of the incumbent undertakings and associations of undertakings or members of such associations). All in all, it is underlined that the Board will adopt a zero-tolerance policy for the ones who take advantage of such crisis in an effort to maintain the competitive landscape.

Even though it is difficult to anticipate the consequences of the Authority’s public announcement and press release at this stage, the language of these publications suggests that the Authority will continue to monitor and prioritize the anti-competitive conducts exploiting the consumers through taking advantage of the pandemic crisis in the food market and other markets in Turkey. By promising to ensure consumer welfare in such pandemic environment, it could be inferred that the Authority signalled that potential investigations could be launched against the undertakings which carry out self-interested policies in this period.

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