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The Turkish Competition Authority imposes and administrative fine and interim measures on a digital sports platform over exclusivity and discriminatory advertising practices (*Maçkolik*)

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This article summarizes the Turkish Competition Board's ("**Board**") *Maçkolik* decision ¹, in which administrative monetary fines were imposed on Maçkolik İnternet Hizmetleri Ticaret AŞ ("**Maçkolik**"), a major digital sports content platform, for violating Articles 4 and 6 of Law No. 4054 on the Protection of Competition ("**Law No. 4054**"). The Board found that Maçkolik violated Article 4 of Law No.4054 by imposing customer restrictions under its advertising and service agreements and imposed administrative monetary fines on the undertaking. The Board also held that Maçkolik abused its dominant position in the market for online display advertising and redirection services by engaging in discriminatory conduct against online fixed odds betting operators, imposing an additional administrative monetary fine. The Board further required Maçkolik to adopt a transparent, non-discriminatory advertising policy, ensure rotational display in advertising spaces, and implement a rotation system in redirection areas.

Background of the Case

In July 2022, the Board initiated an investigation into whether the exclusive advertising agreements of D Elektronik Şans Oyunları ve Yayıncılık A.Ş. ("**Nesine**"), an undertaking operating in the online betting market, amounted to an abuse of dominance under Article 6 or a prohibited vertical agreement under Article 4 of Law No. 4054 ("**Nesine Investigation**"). The investigation focused on Nesine's exclusive Advertisement Sales Services Agreement with Maçkolik.

During the Nesine Investigation, Maçkolik's key role in the market, particularly its high redirection volumes to Nesine, was highlighted, revealing that Maçkolik was a critical platform for virtual dealers. At that time, Nesine was the only betting operator advertising on Maçkolik, which increased its visibility. As this advantage was expected to grow,

and the Board considered that until a final decision was reached another sports season (2023–2024) would pass, it further noted that the continued application of the agreement until then could result in exclusionary practices for the 2024–2025 season. Therefore, it concluded that there was a possibility of serious and irreparable damage occurring before the final decision was taken; therefore, the Board imposed interim measures requiring the removal of exclusivity provisions from the Nesine-Maçkolik agreement.

However, a subsequent review of Maçkolik's and Sahadan's (a platform belonging to the same economic entity as Maçkolik) activities revealed that, despite the removal of exclusivity provisions, Nesine's advertisements continued to be prominently displayed on Maçkolik's platforms. It was also noted that, on the Sahadan mobile application, users clicking on betting odds were redirected exclusively to Nesine, while no other betting operator enjoyed similar access. These findings prompted the Board to initiate a separate investigation against Maçkolik to assess whether Articles 4 and 6 of Law No. 4054 had been violated, which ultimately led to the decision examined in this article.

Relevant Product and Geographic Markets

In assessing the relevant product market, the Board considered Maçkolik's operations as those of a two-sided viewer-builder platform, where the value for one side depends on the number of users on the other. The Board found that Maçkolik provides services to consumers on one side and to clients purchasing advertising on the other. The Board identified five relevant product markets: (i) provision of sports scores via the platform, (ii) provision of sports betting bulletins and forum services via the platform, (iii) online display advertising and redirection services, (iv) provision of sports news via the platform, and (v) provision of sports statistics via the platform. The relevant geographic market was

1. Decision of the Board dated 20.02.2025, and numbered 25-07/170-84

defined as Türkiye for all relevant product markets.

Interim Measures

Following the initiation of an investigation into Maçkolik, the Board conducted an on-site inspection, during which it discovered that, after the interim measure in the Nesine Investigation, Maçkolik had engaged in negotiations with other betting operators. This process resulted in the signing of an “Advertising Sales and Marketing Agreement” with Oley -another betting operator- leading to the appearance of Oley’s advertisements on Maçkolik’s websites and mobile applications. However, despite this development, Nesine’s advertisements continued to dominate the platforms of Maçkolik and its affiliate Sahadan, while Oley remained the sole additional betting operator featured, occupying limited and less prominent advertising space. This persistence of disproportionate visibility, even after the removal of exclusivity provisions from the Nesine-Maçkolik agreement, raised concerns that Nesine’s competitors might still face restricted access and visibility on Maçkolik’s platforms.

To address these concerns, the Board imposed additional interim obligations on Maçkolik, requiring it to apply objective, non-discriminatory criteria for ad visibility, implement a rotational ad system across platforms, and ensure equal access and communication opportunities for other betting operators. Maçkolik was also required to submit monthly technical reports and a final compliance report, after which the Board confirmed that the obligations had been fulfilled.

Exclusivity Assessment Under Article 4

As part of the investigation, the Board scrutinized the advertising sales and marketing agreements concluded with various advertising service providers (Kokteyl, Medyanet, Onedio, and RGTE,) which allowed these buyers the right to sell advertising space on Maçkolik’s platforms. Under these agreements, Maçkolik authorized the buyers to use advertising spaces on its own platforms. In this way, a

vertical relationship emerges, where Maçkolik is the provider of these spaces, and the other undertakings are the buyers of this service.

Upon reviewing the agreements, the Board found that agreements contained provisions prohibiting these undertakings from publishing advertisements of any betting operator and/or prediction site other than Maçkolik itself. Meanwhile, Maçkolik was directly publishing advertisements for betting operators, notably Nesine, in the media channels it marketed itself. The Board stated that these restrictions effectively amounted to a limitation on the potential customers to whom the buyers could market the relevant advertising spaces. In this context, it concluded that the relevant provisions did not specify which customers were allocated to the supplier or to other buyers, and that the customer restriction in question applied not only to active sales but also to passive sales.

Moreover, the Board examined whether these agreements could benefit from block exemption under the Block Exemption Communiqué No 2002/2 on Vertical Agreements or individual exemption under Article 5 of Law No.4054 and concluded that it would not benefit from block exemption or individual exemption since it did not allocate exclusive territories or customer groups to its resellers in a manner that would be permissible and instead, it imposed a general sales restriction without distinguishing between active and passive sales.

Abuse of Dominant Position Through Exclusivity Conduct

Upon examining the markets where Maçkolik might be in dominant position, the Board concluded that Maçkolik possesses market power enabling it to act independently of its competitors and customers, and that it holds a dominant position in (i) *the market for the provision of sports scores through its platform* and (ii) *the market for the provision of sports betting bulletins and forum services* through its platform.

Conversely for the online display advertising market, the Board concluded that Maçkolik does not hold

dominant position, due to the presence of significantly larger undertakings such as Meta and Google in the market. However, the Board concluded that Maçkolik, due to its strong consumer base in the markets where it holds a dominant position, is a key advertising platform for undertakings targeting sports and betting audience, and that Maçkolik's consumer-facing services and its core revenue-generating online advertising and redirection activities cannot be separated. Although the conduct under scrutiny took place in the online advertising market where Maçkolik is not in dominant position, the Board found that these actions were supported by its dominant position in adjacent markets which reinforce that dominance. Therefore, the Board emphasized the need to assess the leveraging effect between markets and examine whether such integrated conduct restricts competition.

One of the key allegations examined in the current Maçkolik investigation was whether Maçkolik, despite the interim measures imposed in the Nesine Investigation, continued to create a de facto exclusivity through its ongoing practices. The Board, then examined the exclusivity conduct of Maçkolik and concluded that Maçkolik did not violate Article 6 of Law No. 4054 through de facto exclusivity, as it had signed an advertising agreement with another betting operator Oley and began displaying Oley's ads on its platforms following the interim measure decision imposed by the Board in the Nesine Investigation. However, the Board stated that the continued dominance of Nesine's ads, the limited visibility of Oley, and the absence of other betting operators raised concerns of discriminatory conduct.

Assessment of Maçkolik's Discriminatory Practices

Following the interim measure regarding the removal of the exclusivity provisions in the Nesine-Maçkolik

agreement during the Nesine Investigation, Maçkolik prepared new service packages to be offered to virtual betting operators. After examining these new packages, it was observed that a special "gold partner" package was offered to Nesine, granting top placement in redirection areas and exclusive features such as the pre-match statistics, predictions tab, bulletin, survey section, and Nesine TV. These privileges were not made available to other betting operators such as Oley, who were assigned lower positions without comparable features. Therefore, the Board concluded that Maçkolik engaged in discriminatory conduct by placing equally positioned competitors at a competitive disadvantage and determined that this conduct falls within the scope of Article 6(2)(b) of Law No. 4054. Accordingly, the Board decided to impose behavioural obligations to cease the infringing conduct pursuant to Article 9 of Law No. 4054.

The imposed obligations included implementing a transparent, non-discriminatory advertising policy on its platforms, ensuring rotational display of ads without granting privileged positioning, implementing a transparent redirection policy in sports betting areas, and establishing a system with equal and rotational display of all undertakings operating in the fixed-odds online betting market, without providing any undertaking with preferential treatment.

Conclusion

The Maçkolik decision serves as a significant precedent of the Board's approach to tackling exclusivity and discriminatory practices in digital advertising markets. Beyond addressing the specific conduct at issue, it underscores the critical importance of guaranteeing non-discriminatory access to key online platforms, which often serve as essential gateways for reaching consumers. The case also demonstrates the Board's readiness to employ a combination of monetary penalties and structural commitments, not only to terminate ongoing infringements but also to prevent their recurrence.

See also:

The Turkish Competition Authority imposes a fine against an online betting company for abusing its dominant position in the market for fixed odds betting by virtual dealers (*Nesine.com*) – 7 March 2024, Art. 117717

The Turkish Competition Authority fines a sports betting company for abusing its dominance through exclusivity agreements (*Nesine*) – 29 February 2024, Art. 122735

The Turkish Competition Authority revises interim measures for a sports live score tracking app during an investigation into an exclusive advertising deal (*Maçkolik*) – 12 October 2023, Art. 118952

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