

Competition & Antitrust - Turkey

Competition Board reassesses Super League broadcasting rights

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The Turkish Football Federation (TFF) is the exclusive holder of Super League football broadcasting rights. The TFF transfers these rights for a given period to broadcasting organisations through tender offers, and inherently these rights are solely and exclusively exercised by a single undertaking. At present Super League broadcasting rights are held by Krea İçerik Hizmetleri ve Prodüksiyon AŞ (Krea).

The Competition Board reassessed its decision on the acquisition of broadcasting rights for the 2015-2016 and 2016-2017 Super League seasons following the 10th Administrative Court of Ankara's suspension of execution decision. The board launched an investigation to determine whether the May 21 2012 agreement between TFF and Krea had violated Article 4 of the Law on the Protection of Competition (4054), by assessing whether the agreement fulfilled the conditions for individual exemption.

TFF and Krea had executed an addendum on March 5 2012 which extended the terms of the Packet A Broadcasting Rights Agreement for three years without making a tender offer. This meant that Krea would have acquired the broadcasting rights covering the 2017-2018 season and the aggregate term for which it held such rights would have been 18 years. Upon the complaint against the addendum, the board found that it violated Article 4 of Law 4054. Following the board's decision, TFF applied for individual exemption for the addendum on April 18 2012. In an April 30 2012 decision, the board refused to grant individual exemption on the grounds that a three-year term limits competition more than what is required under Article 5 of Law 4054.

TFF and Krea executed the agreement on broadcasting rights for the 2015-2016 and 2016-2017 Super League seasons on May 21 2012. A further investigation was initiated upon the claim that, contrary to the board's April 30 2012 decision, the agreement had extended the term set for holding Super League broadcasting rights by two years.

The board reviewed whether the agreement met the conditions set in its April 30 2012 decision and its October 11 2013 decision, which granted individual exemption to the agreement under certain conditions. The board asserted that sub-licensing, tender offers for broadcasting rights on alternative technologies and curtailing the terms of developmental competitive steps were no more than is required under Article 5 of Law 4054 (ie, ensuring new developments and enabling the consumer to benefit from such developments). The board concluded that the agreement was incapable of restricting competition in the market. It considered the parties' decision to limit the agreement's terms from three to two years as an improvement. Consequently, the board granted individual exemption to the agreement on the condition that Packet A broadcasting rights, in particular live match broadcasting rights (in part or as a whole, depending on the preference of the buyer) were sub-licensed to competitors and other undertakings broadcasting via alternative technology under reasonable market conditions.

In the action for annulment and suspension of execution, which was brought by the complainant following the board's 2013 decision on the agreement, the court suspended the decision on the grounds that the board had made its decision without holding an oral hearing, contrary to the request made by TFF in its first written defence. This violated Article 46 of Law 4054, which provides that an oral hearing must be held on the statement of the parties indicated in their written submissions.

Following the court's decision, an oral hearing was held on October 15 2014, and on November 4 2014 the Competition Board completed its investigation in parallel with its decision, which had been suspended by the court. The board granted individual exemption to the agreement under the aforementioned condition that Packet A broadcasting rights be sub-licensed to competitors and other undertakings broadcasting via alternative technology under reasonable market conditions.

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