Behavioral Remedies in Logistics Mergers: The Turkish Competition Board's Conditional Clearance of the CEVA/Borusan Acquisition

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I. Introduction

The Turkish Competition Board's ("***Board***") recent decision[2] conditionally clearing the acquisition of sole control over Borusan Tedarik Zinciri Çözümleri ve Teknoloji AŞ ("***Borusan***") by CEVA Corporate Services ("***CEVA***"), an undertaking ultimately controlled by CMA CGM S.A. ("***CMA CGM***"), represents a notable landmark in Türkiye's logistics and supply chain management markets ("***Decision***"). Assessed under Article 7 of Law No. 4054 on the Protection of Competition ("***Law No. 4054***"), the Decision sets out significant competition law considerations regarding vertical and horizontal overlaps in the logistics sector, the treatment of specialized service bottlenecks, and the design of behavioral remedies in merger control.

The review process was unusually intensive for a preliminary examination (Phase I). Following a third-party complaint submitted even prior to the former merger notification, the Turkish Competition Authority ("***Authority***") issued seven requests for information to CEVA, gathered written views from major trade associations (UTİKAD, LODER, and UND), dozens of competitors and corporate customers, and conducted online interviews with 34 corporate clients over a five-month review period. Following this intense and extensive market investigation, the Board concluded that the transaction did not raise vertical foreclosure concerns in container

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[2] The Board's *Borusan/CEVA* decision of October 23, 2025 (25-40/967-560).

liner shipping or horizontal competition concerns in the fragmented freight forwarding market. By contrast, the Board determined that the transaction could result in a significant impediment to effective competition ("***SIEC***") in the contract logistics services market in Türkiye, particularly across specialized sub-segments characterized by high entry barriers, software integration requirements and customer switching costs. Nevertheless, rather than initiating an in-depth (Phase II) investigation, the Board conditionally cleared the transaction at the preliminary examination (Phase I) stage based on a behavioral commitment package submitted by CEVA.

Against this background, this article first outlines the parties' activities and the relevant market definitions before examining the Board's competitive assessment of the vertical and horizontal overlaps under Article 7 of Law No. 4054. It then analyzes the behavioral commitments accepted by the Board and concludes with observations on the Decision's broader implications for merger control remedies in Türkiye.

II. Background and Relevant Markets

CEVA is a global logistics provider controlled by CMA CGM, an international shipping group active in container liner shipping worldwide, including in Türkiye. Both globally and in Türkiye, CEVA provides air, ocean and road freight forwarding services as well as integrated contract logistics solutions. Borusan, demerged from Borusan Lojistik Dağıtım Depolama Taşımacılık ve Ticaret A.Ş. and controlled by Borusan Holding Anonim Şirketi prior to the transaction, is similarly active in contract logistics (including multi-user and dedicated warehousing, inventory management and distribution) and freight forwarding services.

Consistent with its established decisional practice and comparative precedents, including those of the European Commission, the UK Competition and Markets Authority ("***CMA***"), COMESA, the Competition Commission of India, and the Australian Competition and Consumer Commission, the Board examined the transaction across three affected product markets: (i) container liner shipping services, (ii) freight forwarding services, and (iii) contract logistics services. Distinguishing freight forwarding from contract logistics, the Board noted that freight forwarding primarily entails intermediary services organizing the physical transport of goods via third-party carriers, whereas contract logistics involves long-term, high-volume strategic partnerships managing the entire flow and storage of goods alongside value-added services and IT integration.

An important point in the market definition analysis concerned the classification of three specialized transport activities where market respondents raised specific concerns: (i) milk-run (just-in-time) transport, (ii) less-than-truckload ("***LTL***" or partial) distribution, and (iii) bulky/high-volume goods delivery. While CEVA contended that only milk-run fell within contract logistics and that LTL and bulky goods delivery belonged in the freight forwarding market, the Board determined that all three exhibited the core characteristics of contract logistics sub-segments. Given that no competition concerns were identified in freight forwarding, this classification proved decisive in triggering the Board's SIEC analysis, even though the Board ultimately left narrower sub-market definitions open.

With respect to the geographic dimension, the Board defined the relevant geographic market as "Türkiye" for freight forwarding and contract logistics services, and as "trade routes originating from or terminating in the Mediterranean" for container liner shipping services.

III. The Board's Assessment Under Article 7 of Law No. 4054

Because CMA CGM operates upstream in container liner shipping while Borusan operates downstream in freight forwarding, the Board first assessed potential vertical input and customer foreclosure risks. The Board dismissed input foreclosure concerns on the grounds that CMA CGM competes with major global carriers (such as MSC, Maersk and Hapag-Lloyd) on Mediterranean trade routes and depends on independent freight forwarders for cargo volume. In addition, even if Borusan sourced its entire container shipping demand from CMA CGM, that volume would account for only a minor fraction of CMA CGM's total container traffic originating from and terminating in Türkiye. The Board likewise ruled out customer foreclosure given the merged entity's limited market share in downstream freight forwarding.

With respect to the horizontal overlap in freight forwarding services, the Board found that although the merged entity would rank first by revenue, the market in Türkiye is fragmented across thousands of active firms (approximately 5,000, with around 100 notable players) and characterized by low entry barriers due to an asset-light business model, short-term or spot arrangements, low switching costs and strong buyer power. Because the combined market share remained below the 20% threshold set out in the Guidelines on the Assessment of Horizontal Mergers and Acquisitions ("***Horizontal Merger Guidelines***"), both overall and across road, sea and air transport modes, the Board found no SIEC concerns in this market.

By contrast, the Board identified horizontal unilateral concerns in the contract logistics services market. To verify market concentration, the Board calculated market shares using two

distinctive methodologies: first against the notifying party's estimated total market size, and second against the aggregate turnover collected directly from competitors and the parties during the investigation. Under both calculations, combining two leading players in Türkiye, the transaction would make the merged entity the market leader ahead of Netlog, with a market share several times larger than those of subsequent rivals such as Ekol and Horoz.

Beyond market shares, the Board noted that contract logistics involves high entry and expansion barriers stemming from capital and sunk investments in physical infrastructure, fleet management, quality certifications (such as ISO, TAPA, and GDP), and digital systems such as Warehouse Management Systems and Transportation Management Systems, alongside economies of scale and the need for established corporate references. Moreover, customized IT integrations, dedicated warehouse setups and personnel training create substantial switching costs, with provider transitions typically requiring three to twelve months and carrying operational disruption risks. Referring to Paragraph 96 of the Horizontal Merger Guidelines, the Board also noted that bargaining leverage held only by certain large corporate clients did not establish market-wide countervailing buyer power, and that removing Borusan as an independent competitor would further reduce customer alternatives.

These structural concerns were particularly pronounced in three contract logistics sub-segments where CEVA and Borusan competed closely and alternative providers were limited: (i) milk-run (just-in-time) transport, which relies on customized software integrated into factory production schedules, where rival software adaptation alone can take seven to eight months; (ii) nationwide LTL (partial) distribution, which requires a cross-docking and delivery network covering all 81 provinces within strict delivery timeframes; and (iii) high-volume/bulky goods delivery, involving the intercity end-consumer delivery of oversized items exceeding postal or courier limits for large corporate customers, and e-commerce platforms.

IV. The Behavioral Commitments and Conditional Clearance

To address the SIEC concerns identified in contract logistics and its specialized sub-segments, CEVA submitted a behavioral commitment package combining operational remedies with transparency and monitoring obligations.

With respect to customer switching and contractual protection, CEVA committed that for one year following closing, it will provide a 12-month transition period upon request to customers wishing to switch providers (as well as to customers whose contracts expire by December 31, 2025, provided they notify CEVA in writing prior to that date of having contracted with another

provider), during which CEVA will continue supplying services under existing contractual terms, maintain software integrations, and facilitate data migration. For the same one-year period, CEVA undertook to keep all existing customer agreements in force without modification (save for customer termination requests, ordinary contract expiry, or objective causes such as breach, non-payment, or unlawful conduct) and not to increase domestic transport and warehousing prices beyond the limits stipulated in existing contracts. In addition, CEVA committed to amending all existing customer agreements, to be documented to the Authority within 120 days of closing and drafting new agreements executed within one year of closing so as to grant customers the right to terminate at any time upon at least three months' notice, accompanied by the 12-month transition support.

Alongside these customer-facing safeguards, CEVA undertook two two-year commitments aimed at preserving rival access and preventing foreclosure. Specifically, for two years post-closing, CEVA will offer its existing distribution network services to competing logistics providers on fair, reasonable and non-discriminatory ("***FRAND***") terms and prices upon request, and will not refuse to supply warehousing, distribution network, or any other contract logistics services separately to customers in Türkiye.

To ensure transparency and compliance monitoring, CEVA also committed to publishing the remedies on its Turkish website within one week of closing, notifying existing customers within 30 days, and appointing an Authority-approved independent monitoring trustee within 30 days to submit semi-annual compliance reports over a two-year period (four reports in total). In addition to CEVA's submitted commitments, the Board imposed an explicit ancillary obligation requiring CEVA to submit formal proof of both the website publication and customer notifications to the Authority within 45 days of closing.

Assessing each commitment individually, the Board found that the transition period, early termination rights and IT/data migration obligations addressed customer switching costs and operational lock-in, particularly in software-dependent services such as milk-run transport and warehousing. Likewise, the Board noted that FRAND access to the merged entity's nationwide distribution network would allow small, medium-sized, and regional competitors to serve customers across Türkiye without incurring heavy infrastructure investments such as cross-docking facilities, thereby mitigating entry and expansion barriers in LTL distribution. Combined with the price cap, contractual continuity and standalone supply obligations preventing forced bundling of warehousing and transport services, the Board concluded that the behavioral remedies were proportionate, capable of eliminating the identified competition

concerns, promptly implementable, and effectively enforceable. Unanimously granting conditional clearance, the Board explicitly ruled that the accepted behavioral commitments constitute binding obligations, any breach of which will trigger daily administrative fines under Article 17 of Law No. 4054.

V. Conclusion

The Decision provides a notable example of the Board's willingness to accept behavioral remedies in horizontal mergers, even where a transaction creates a market leader in concentrated service segments, without initiating a Phase II investigation. The Board's approach contrasts with the UK CMA's 2025 GXO/Wincanton decision, cited in the Decision, where similar concentration and switching-cost concerns in dedicated grocery warehousing led to a Phase II review and a structural divestiture. While structural divestitures are generally preferred for horizontal overlaps, the Decision shows that in B2B service sectors marked by contractual lock-in, IT integration requirements, and network effects, a behavioral package combining FRAND infrastructure access, contractual exit rights, software transition assistance, standalone supply obligations, and trustee oversight may be considered sufficient to resolve SIEC concerns.

The commitment periods also match market conditions: one year for contract continuity, price caps, and switching support aligns with the three-to-twelve-month transition times found in the investigation, while two years for FRAND access, and trustee oversight gives competitors room to grow and prevents foreclosure. For undertakings contemplating M&A transactions in logistics and other infrastructure- or technology-intensive service sectors in Türkiye, the Decision highlights both the weight the Board attaches to customer feedback regarding sub-segment bottlenecks and the practical value of designing targeted, verifiable behavioral commitments.

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