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COMPETITION AND CARTEL LENIENCY

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Country Q&A

Merger control in Turkey: overview

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REGULATORY FRAMEWORK

1. What (if any) merger control rules apply to mergers and acquisitions in your jurisdiction? What is the regulatory authority?

Regulatory framework

The relevant legislation on merger control is:

- The Law on the Protection of Competition No. 4054 dated 13 December 1994 (Competition Law).
- Communiqué No. 2010/4 on Mergers and Acquisitions Requiring the Approval of the Competition Board (Communiqué), published on 7 October 2010 by the Turkish Competition Authority (*Rekabet Kurumu*) (Competition Authority). The Communiqué was amended on 29 December 2012 with a revision to the turnover thresholds in Article 7 (see *Question 2, Triggering events*).

In particular, Article 7 of the Competition Law governs mergers and acquisitions, and authorises the Competition Board to regulate through Communiqués which mergers and acquisitions should be notified to gain legal validity. The Communiqué lists the types of mergers and acquisitions that are subject to the Competition Board's review and approval, together with some significant changes to the Turkish merger control regime.

Regulatory authority

The national competition authority for enforcing competition law is the Competition Authority, a legal entity with administrative and economic independence.

The Competition Authority consists of the:

- Competition Board, in its capacity as the competent body of the Competition Authority, the Competition Board is responsible for, among other things, reviewing and resolving notifications concerning mergers, acquisitions and joint ventures. The Competition Board consists of seven members and is seated in Ankara.
- Presidency.
- Main Service Units, which comprise the following:
  - five supervision and enforcement departments;
  - department of decisions;
  - economic analyses and research department;
  - information management department;
  - external relations, training and competition advocacy department;
  - strategy development, regulation and budget department; and
  - cartel on-the-spot inspections support division.
- Each service unit has a sectoral job definition.

See box, *The regulatory authority*,

TRIGGERING EVENTS/THRESHOLDS

2. What are the relevant jurisdictional triggering events/thresholds?

Triggering events

The following transactions may be notifiable (*Article 5/I, Communiqué*):

- A merger of two or more undertakings.
- The acquisition of direct/indirect control over all or part of one or more undertakings by one or more undertakings or persons, who currently control at least one undertaking, through:
  - the purchase of assets or a part or all of its shares;
  - an agreement; or
  - other instruments.

Joint ventures are subject to notification to, and approval of, the Competition Board (*see Question 3, Mandatory or voluntary*).

Concentrations that result in a permanent change of control (either sole or joint control) are subject to the Competition Board's approval, provided they exceed the applicable thresholds. Acquisition of minority shareholdings that do not confer control are not subject to notification. The Communiqué provides a definition of control, which is similar to the definition of control under Article 3 of Regulation (EC) 139/2004 on the control of concentrations between undertakings (Merger Regulation). Under Article 5/II of the Communiqué, control can be constituted by rights, agreements or any other means which, either separately or jointly, de facto or de jure, confer the possibility of exercising decisive influence on an undertaking. These rights or agreements are instruments that confer decisive influence, in particular by:

- Ownership or the right to use all or part of the assets of an undertaking.
- Rights or agreements that confer decisive influence on the composition or decisions of the organs of an undertaking.

Control is deemed acquired by persons or undertakings that (*Article 5/II, Communiqué*):

- Are the holders of the rights.
- Are entitled to the rights under the agreements concerned.

- While not being the holders of the rights or entitled to the rights under agreements, have de facto power to exercise these rights.

The Competition Board's right to impose administrative monetary fines for failure to notify terminates after eight years from the date of infringement. The date of infringement counts as the date of closing the deal. The fine for failure to notify is the same as the fine for implementation before approval or after prohibition (*see Question 11, Implementation before approval or after prohibition*).

Thresholds

The thresholds are set out in the Communiqué, as amended by Communiqué No. 2012/3. The transaction may be subject to the Competition Board's approval if either (*Article 7, Communiqué*):

- The aggregate Turkish turnovers of the transaction parties exceeds TRY100 million and the Turkish turnovers of at least two of the transaction parties each exceeds TRY30 million. (In calculating the turnover, the Turkish Central Bank's average yearly rate in the year in which the turnover was generated should be used (*Article 8/6, Communiqué*)).
- The Turkish turnover of the transferred assets or businesses in acquisitions (or of any of the parties to a merger) exceeds TRY30 million and the worldwide turnover of at least one of the other parties to the transaction exceeds TRY500 million.

NOTIFICATION

3. What are the notification requirements for mergers?

Mandatory or voluntary

Notification is mandatory once the thresholds (*see Question 2, Thresholds*) are exceeded.

There is no *de minimis* exception.

Timing

There is no specific deadline for filing but it is advisable to file the transaction at least 45 calendar days before closing. (A transaction is deemed closed on the date when the change of control occurs (*Article 10, Communiqué*)).

The filing process differs for privatisation tenders. A pre-notification is done before the tender and notifications are submitted to the Competition Board following the tender by the Republic of Turkey Prime Ministry Privatisation Administration. A notification to the Competition Board is done after finalising the tender but before the final decision of the Privatisation Administration (*Communiqué No. 2013/2*).

A public bid can be notified at a stage where the documentation at hand adequately proves the irreversible intention to finalise the contemplated transaction.

Pre-notification and formal/informal guidance

Pre-notification and formal or informal guidance are not available for the purposes of the Turkish merger control filing.

Responsibility for notification

Persons or undertakings that are parties to the transaction in question, or their authorised representatives, can make the filing, jointly or severally (*Article 10, Communiqué*). The filing party should notify the other party of the filing.

Relevant authority

Notification must be made to the Competition Authority.

Form of notification

Standard notification. The notification form is similar to Form CO of the European Commission. One hard copy and an electronic copy of the merger notification form must be submitted to the Competition Board.

Some additional documents are also required, such as:

- The executed or current copies, and sworn Turkish translations, of some of the transaction documents.
- Annual reports, including balance sheets of the parties.
- If available, market research reports for the relevant market.

Short-form notification. A short-form notification (without a fast-track procedure) is available if either:

- A transition from joint control to sole control is involved.
- The total of the parties' respective market shares is less than 20% in horizontally affected markets and each party's market share is less than 25% in vertically affected markets.

In this case, the information requested in sections 6, 7 and 8 of the notification form regarding the information on affected markets, market entry conditions and potential competition, and efficiency gains is not required.

Filing fee

There is no filing fee.

Obligation to suspend

There is an explicit suspension requirement. Therefore, completing a notifiable transaction before approval is prohibited.

If a merger or an acquisition is closed before clearance, the substantive nature of the concentration plays a significant role in determining the consequences. If the Competition Board concludes that the transaction creates or strengthens a dominant position and significantly lessens competition in any relevant product market, the undertakings concerned (as well as their employees and managers that had a determining effect on the creation of the violation) are subject to monetary fines and sanctions.

Irrespective of whether the transaction would have been rejected had it been notified, a turnover-based monetary penalty of 0.1% of the turnover generated in the financial year preceding the date of the fining decision in Turkey is also imposed (*see Question 11, Implementation before approval or after prohibition*).

The suspension requirement cannot be waived under any circumstances as there is no specific regulation allowing or disallowing carve-out arrangements (that is, a hold separate).

PROCEDURE AND TIMETABLE

4. What are the applicable procedures and timetable?

It is advisable to file the transaction at least 45 calendar days before closing.

The procedure comprises two phases:

- **Preliminary review (Phase I).** The Competition Board, in its preliminary review of the notification, decides either to approve or to further investigate the transaction (*see below, Investigation (Phase II)*). The Competition Board notifies the parties of the outcome within 30 days following a complete filing. The notification is deemed filed when received in complete form by the Competition Authority. If the

information requested in the notification form is incorrect or incomplete, the notification is deemed filed only on the date when this information is completed on the Competition Board's subsequent request for further data.

- If the Competition Board fails to notify the parties of its decision, the decision is deemed to be an approval, through an implied approval mechanism.
- **Investigation (Phase II).** If a notification leads to an investigation, it becomes a full-fledged investigation. Phase II must be completed within six months from the date when the Competition Board decides to open an investigation. If deemed necessary, the Competition Board can extend this period only once, for an additional period of up to six months.

During either phase, the Competition Authority can send written requests to the parties, any other party relating to the transaction or third parties such as competitors, customers or suppliers.

If the Competition Authority asks for another public authority's opinion in reviewing a transaction, the applicable time periods for the deemed approval mechanism (*see above, Preliminary review (Phase I)*) automatically restart from day one as of the date on which the relevant public authority submits its opinion to the Competition Authority.

The acquisition by Bekaert of Pirelli Tyre SpA's steel tire cord business is a recent example of a Phase II case. Ultimately, the Competition Board cleared the transaction on 22 January 2015 upon the commitments proposed by the parties.

For an overview of the notification process, see flowchart, *Turkey: merger notifications*.

PUBLICITY AND CONFIDENTIALITY

5. How much information is made publicly available concerning merger inquiries? Is any information made automatically confidential and is confidentiality available on request?

Publicity

Once notified, the Competition Authority publishes transactions on its official website, including the parties' names and the areas of their commercial activity. All final decisions of the Competition Board are published on the Competition Authority's website after confidential business information is redacted.

The main legislation regulating the protection of commercial information is Communiqué No. 2010/3 on Regulation of Right to Access to File and Protection of Commercial Secrets (enacted in April 2010). Communiqué No. 2010/3 places the burden of identifying and justifying information or documents as commercial secrets on the undertakings. In addition, the Competition Board and personnel of the Competition Authority have a legal obligation not to disclose any trade secrets or confidential information they have acknowledged as such during their service (*Article 25, Competition Law*) (*see below, Confidentiality on request*).

Automatic confidentiality

While the Competition Board can also evaluate the information or documents ex officio, the general rule is that information or documents that are not requested to be treated as confidential are accepted as not confidential.

Confidentiality on request

Undertakings must request in writing confidentiality from the Competition Board and justify their reasons for this request.

RIGHTS OF THIRD PARTIES

6. What rights (if any) do third parties have to make representations, access documents or be heard during the course of an investigation?

Representations

The Competition Board can interview third parties and request information from third parties, including the parties' customers, competitors and suppliers, and other persons related to the merger or acquisition (*Article 15, Communiqué*).

If the Competition Authority asks another public authority's opinion, the review period re-starts from day one.

Document access

The complainants and other third parties have a right to access the file (*Communiqué No. 2010/3 on Regulation of Right to Access to File and Protection of Commercial Secrets (Communiqué No. 2010/3)*). The right to access the file can be exercised on written request at any time until the end of the period for submitting the last written statement.

Be heard

The third parties can attend the oral hearing and be heard by submitting a petition and presenting information and documents that show their interest in the subject matter of the oral hearing.

SUBSTANTIVE TEST

7. What is the substantive test?

The substantive test is a typical dominance test. The Competition Board clears mergers and acquisitions that do not create or strengthen a dominant position, and do not significantly impede effective competition in a relevant product market within the whole or part of Turkey (*Article 7, Competition Law* and *Article 13, Communiqué*).

Article 3 of the Competition Law defines a dominant position as any position enjoyed in a certain market by one or more undertakings, by virtue of which those undertakings have the power to act independently from their competitors and purchasers in determining economic parameters, such as the amount of production, distribution, price and supply.

8. What, if any, arguments can be used to counter competition issues (efficiencies, customer benefits)?

The Competition Board may take into account efficiencies in reviewing a concentration to the extent that they operate as a beneficial factor in terms of better-quality production or cost-savings (such as reduced product development costs through the integration, reduced procurement and production costs, and so on).

9. Is it possible for the merging parties to raise a failing/exiting firm defence?

The Competition Board may accept the "failing firm" defence. Failing firm means that even where an approval is not granted to the transaction, the level of competition will still decrease. In other words, if the undertaking is not acquired it will still exit the market due to financial difficulties. The failing firm defence is explained in detail in the Guidelines on the Assessment of Horizontal Mergers and Acquisitions (Horizontal Guidelines).

REMEDIES, PENALTIES AND APPEAL

10. What remedies (commitments or undertakings) can be imposed as conditions of clearance to address competition concerns? At what stage of the procedure can they be offered and accepted?

The parties can provide commitments to remedy substantive competition law issues relating to a concentration under Article 7 of the Competition Law (*Article 14, Competition Law*). The Competition Board is explicitly given the right to secure certain conditions and obligations to ensure the proper performance of commitments. The Competition Authority stipulates that structural and behavioural remedies may be imposed to restore the situation as before the closing (*restitutio in integrum*).

It is at the parties' own discretion as to whether to offer a remedy (*Guidelines on the Remedies that Would Be Permitted by the Turkish Competition Authority in the Mergers and Acquisitions (Guidelines)*). The parties can submit behavioural or structural remedies (*Guidelines*).Although structural remedies take precedence over behavioural remedies, in some recent cases, the Competition Board has accepted behavioural remedies.

The Competition Board will neither impose any remedies nor ex parte amend the submitted remedy. If the Competition Board considers the submitted remedies insufficient, it may enable the parties to make further changes to the remedies. If the remedies are still insufficient to resolve the competition concerns, the Competition Board cannot grant clearance.

The form and content of the divestiture remedies vary significantly in practice. The Guidelines set out all of the applicable procedural steps and conditions. The parties must submit detailed information as to how the remedy would be applied and how it would resolve the competition concerns (*Guidelines*).

The parties can submit to the Competition Board proposals for possible remedies either during the preliminary review (Phase I) or the investigation period (Phase II). While the parties can submit the commitments during Phase I, the notification is deemed filed only on the date of the submission of the commitments. In any case, a signed version of the commitments that contains detailed information on their context and a separate summary should be submitted to the Competition Authority. The Guidelines also provide a form that lists the necessary information and documents to be submitted in relation to the commitments.

In terms of monitoring compliance with the remedies submitted, there are no specific time periods for filings to the Competition Authority. The remedies include their own reporting/informing mechanisms, which are approved or altered by the Competition Authority.

11. What are the penalties for failing to comply with the merger control rules?

Failure to notify correctly

If the information requested in the notification form is incorrect or incomplete, the notification is deemed filed only on the date when that information is completed or supplemented.

In addition, the Competition Authority can impose a turnover-based monetary fine if the undertakings or associations of undertakings provide incorrect or misleading information in a notification filed for exemption or negative clearance, or for the approval of a merger or acquisition. This fine amounts to 0.1% of the turnover generated in the financial year preceding the date of the fining decision (or, if this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision is taken into account). This fine can be imposed on both the natural persons as well as legal entities that qualify as an undertaking or as an association of undertakings, or members of these associations. The liable parties are the acquirer(s) for acquisitions, merging parties for mergers.

Implementation before approval or after prohibition

If the parties to a notifiable merger or acquisition realise the transaction without approval of the Competition Board, a turnover-based monetary fine of 0.1% of the turnover generated in the financial year preceding the date of the fining decision is imposed. If this is not calculable, the fine is based on the turnover generated in the financial year nearest to the date of the fining decision.

Fines for implementation of a transaction that creates or strengthens a dominant position, and significantly impedes effective competition in a relevant product market within the whole or part of Turkey, range from a mandatory minimum level (TRY 16,765 in 2015) up to 10% of the violator's annual gross income in the preceding year (*Article 16, Competition Law*).

A notifiable merger or acquisition that is not notified to and approved by the Competition Board is deemed legally invalid, with all its legal consequences (*Article 7, Competition Law*).

Failure to observe

The provisions for and legal consequences of non-compliance with remedies, and with obligations that are associated with remedies, differ (*paragraph 92, Guidelines*).

Where a party fails to comply with a remedy, any clearance will automatically be invalid. In addition, the Board can impose administrative monetary fines under Article 16 of the Competition Law (*see Question 11, Implementation before approval or after prohibition*).

In the case of non-compliance with obligations, the parties could be subjected to administrative periodic monetary fines under Article 17 of the Competition Law (*see below*).

Periodic monetary fines can be imposed on the undertakings, associations of undertakings or members of the latter at a rate equivalent to 0.05% (for each day) of their annual turnover generated in the financial year preceding the date of the decision, to comply with:

- The obligations imposed by a conclusive decision.
- A preliminary injunction.
- Commitments undertaken by the entities.

12. Is there a right of appeal against the regulator's decision and what is the applicable procedure? Are rights of appeal available to third parties or only the parties to the decision?

Rights of appeal

The Competition Board's final decisions can be submitted to judicial review before the Administrative Courts by filing a lawsuit within 60 days of the receipt by the parties of the Competition Board's reasoned decision. Rights of judicial review are available only to the parties to the decision.

Procedure

The final administrative sanction decisions of the Competition Board can be submitted to judicial review before the administrative courts in Ankara (*Law no. 6352*, which took effect on 5 July 2012). The Competition Board's final administrative sanction decisions can be appealed before the administrative courts in Ankara by filing an appeal case within 60 days of receipt by the parties of the Board's (reasoned) decision. The judicial review period before the administrative court usually takes about 24 to 30 months.

Third party rights of appeal

Third parties can challenge the Competition Board's decision before the competent judicial tribunal, subject to the condition that they prove their legitimate interest.

AUTOMATIC CLEARANCE OF RESTRICTIVE PROVISIONS

13. If a merger is cleared, are any restrictive provisions in the agreements automatically cleared? If they are not automatically cleared, how are they regulated?

The Competition Board's approval decision is deemed to also cover the directly related and necessary extent of restraints on competition brought by the concentration (for example, non-compete, non-solicitation and confidentiality). This allows the parties to engage in self-assessment. If the ancillary restrictions are not compliant, the parties may face an investigation under Article 4 of the Competition Law.

REGULATION OF SPECIFIC INDUSTRIES

14. What industries (if any) are specifically regulated?

The provisions of Articles 7, 10 and 11 of the Competition Law are not applicable if the sectoral share of the total assets of the banks subject to merger or acquisition does not exceed 20% (*Banking Law No. 5411*).

In applying the exception rule in Banking Law No. 5411, the Competition Board distinguishes between:

- Transactions involving foreign acquiring banks with no operations in Turkey. The Competition Board applies the Competition Law to these mergers and acquisitions.
- Foreign acquiring banks already operating in Turkey. The Competition Board does not apply the Competition Law to these transactions, under the exception rule in the Banking Law No. 5411.

The competition legislation provides no specific regulation applicable to foreign investments. However, there are specific restrictions on foreign investment in other legislation, such as in the media sector.

15. Has the regulatory authority in your jurisdiction issued guidelines or policy on its approach in analysing mergers in a specific industry?

The Competition Authority has not issued guidelines or policy on its approach in analysing mergers in a specific industry.

JOINT VENTURES

16. How are joint ventures analysed under competition law?

Article 5 of the Communiqué provides a definition of joint venture, which does not fall far from the definition used in EU law.

To qualify as a concentration subject to merger control, a joint venture must be full function and satisfy the following criteria:

- Joint control exists in the joint venture.
- The joint venture is an independent economic entity established on a lasting basis (that is, having adequate capital, labour and an indefinite duration).

INTER-AGENCY CO-OPERATION

17. Does the regulatory authority in your jurisdiction co-operate with regulatory authorities in other jurisdictions in relation to merger investigations? If so, what is the legal basis for and extent of co-operation (in particular, in relation to the exchange of information, remedies/settlements)?

The Competition Authority is empowered to get in contact with certain regulatory authorities around the world including the European Commission, in order to exchange information. In this respect, Article 43 of the Decision No. 1/95 of the EC-Turkey Association Council (Decision No. 1/95) authorises the Competition Authority to notify and request the European Commission (Competition Directorate-General) to apply relevant measures if the Competition Board believes that transactions realised in the territory of the European Union adversely affect competition in Turkey. Such provision grants reciprocal rights and obligations to the parties (EU-Turkey).

Moreover, the research department of the Turkish Competition Authority makes periodic consultations with relevant domestic and foreign institutions and organisations.

The European Commission has been reluctant to share any evidence or arguments with the Turkish Competition Authority in the few cases where the Turkish Competition Authority explicitly asked for them.

RECENT MERGERS

18. What notable recent mergers or proposed mergers have been reviewed by the regulatory authority in your jurisdiction and why is it notable?

The most notable recent mergers concerned:

- The acquisition by NV Bekaert SA (Bekaert)of steel tire cord business Pirelli Tyre SpA (22 January 2015, 15-04/52-25).

The Board took the relevant transaction into a Phase II review in the last quarter of 2014 as the Board was determined that the transaction would significantly increase the market power of the parties, given the structural indications such as concentration levels in the market and market shares. The Board also found strong indications that the parties would become dominant in the relevant markets and restrict competition significantly. Bekaert committed to enter into long-term supply agreements with its local customers for a period of three years (maximum) and at competitive prices, in an attempt to eliminate the potential competition law concerns. On the submission of the proposed commitments, the Competition Board granted conditional approval. As the Competition Board's conditional approval decision is solely based on behavioural remedies, the Bekaert/Pirelli decision could be deemed as a benchmark precedent.

- The acquisition by Lesaffre et Compaigne (**[**carried out through]** the Turkish subsidiary Öz Maya Sanayi A.Ş. (a player in the market for yeast) of sole control over Dosu Mayacılık A.Ş., which is one of the most powerful yeast producers in Turkey and controlled by Yıldız Holding A.Ş. (15 December 2014, 14-52/903-411). The Competition Board did not find the initial commitments sufficient to remove the competition law concerns and consequently, took the transaction into Phase II review. On submission of the amended commitments, the Competition Board granted a conditional approval to the transaction. This decision is another case where the Board both:
  - accepted a behavioural remedy as sufficient to remove the competition law concerns, even along with the structural remedies; and
  - where the Board granted approval to a transaction even if it accepted that it will result in joint dominance in the market.
- The acquisition of full shares of Beta Marina Liman ve Çekek İşletmesi A.Ş. and Pendik Turizm Marina Yat ve Çekek İşletmesi A.Ş. by Setur Servis Turistik A.Ş. (9 July 2015, 15-29/421-118). The Competition Board ultimately refused to grant approval and rejected the transaction on the basis that the transaction would lead Koç Holding, which is the ultimate parent company of Setur, to become dominant in İstanbul City Port Marina and impede effective competition in the relevant product market.
- The acquisition of sole control over Migros Ticaret A.Ş. by Anadolu Endüstri Holding A.Ş., was also granted conditional approval (9 July 2015, 15-29/420-117). The Competition Board conducted an in-depth analysis on whether the transaction will result in any input and/or customer restriction in the relevant product markets. Consequently, the Board concluded that the transaction will not result in the creation or strengthening of a dominant position and will therefore not impede effective competition in the relevant product markets, except the market for beer. To eliminate the Competition Board's concerns with respect to the transaction's effect in the market for beer, certain commitments were submitted. This decision is also in line with the Board's recent approach towards acceptability of the behavioural remedies.

PROPOSALS FOR REFORM

19. Are there any proposals for reform concerning merger control?

The Draft Competition Law, which was issued by the Turkish Competition Authority in 2013 and officially submitted to the Presidency of the Turkish Parliament on 23 January 2014, is now null and void following the beginning of the new legislative year of the Turkish Parliament. At this stage, it remains unknown whether the new Turkish Parliament or the government will renew the draft law. However, it is anticipated that the main topics to be held in the discussions on the potential new draft competition legislation will not significantly differ from the changes that were introduced by the previous draft. Therefore, in this hypothetical scenario, the discussions are expected to mainly focus on the following:

- Conformity with the EU competition law legislation.
- Introduction of the EU's significant impediment of effective competition (SIEC) test instead of the current dominance test.
- Adoption of the term of "concentration" as an umbrella term for mergers and acquisitions.
- Elimination of the exemption of acquisition by inheritance.
- Abandonment of the Phase II procedure.
- Extension of the appraisal period for concentrations from the current 30 calendar days period to 30 working days.
- Removal of the fixed turnover rates for certain procedural violations, including the failure to notify a concentration and hindering on-site inspections, and set upper limits for the monetary fines for these violations.

ONLINE RESOURCES

W *www.rekabet.gov.tr*

Description. This is the official website of the Competition Authority (*see below, The regulatory authority*). The updated versions of the laws, publications, latest board announcements, decisions, work principles of the Competition Board and general information about Competition Authority procedures can be obtained from the website. This information, except for certain Board decisions, can be accessed in English.

THE REGULATORY AUTHORITY

Competition Authority (Rekabet Kurumu)

Head. Prof. Dr. Ömer TORLAK (The Presidency of the Turkish Competition Authority)
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Outline structure. The Competition Authority consists of the:

- Competition Board, which consists of seven members and is seated in Ankara.
- Presidency.
- Main Service Units, which comprise the following:
  - five supervision and enforcement departments;
  - department of decisions;
  - economic analyses and research department;
  - information management department;
  - external relations, training and competition advocacy department;
  - strategy development, regulation and budget department; and
  - cartel on-the-spot inspections support division.
- Each service unit has a sectoral job definition.

Responsibilities. In its capacity as the competent body of the Competition Authority, the Competition Board is responsible for, among other things, reviewing and resolving notifications concerning mergers, acquisitions and joint ventures.

Procedure for obtaining documents. The application form is attached to Communiqué.

Practical Law Contributor profiles

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Qualified. Istanbul, 1997; New York, 2001; England and Wales, 2004 (non-practising)

Areas of practice. Competition law; regulated markets; mergers and acquisitions; general corporate; EU law.

Recent transactions

- Represented Coca-Cola Satış ve Dağıtım A.Ş. in an investigation launched by the Competition Authority as a result of the preliminary inquiry related to the claims that Coca-Cola made exclusive agreements with some sale points in various cities in Turkey.
- Represented Deutsche Bahn Group of companies (Schenker & Co AG, Schenker A.E., Schenker Arkas Nakliyat ve Ticaret A.Ş. and Fertrans AG) in an investigation conducted by the Turkish Competition Authority against nine companies active in the railway freight forwarding services market.
- Filing merger notification with the Competition Board for the acquisition of sole control of SABMiller plc. by Anheuser-Busch In Bev.

Languages. English, French

Professional associations/memberships. Istanbul Bar (since 1997); New York Bar (since 2002); American Bar Association (since 2002); Law Society of England and Wales (since 2004); Brussels Bar (since 2004).

Publications

- *"Most-favored-nation Clauses in Commercial Contracts: Legal and Economic Analysis and Proposal For a Guideline", by Gönenç Gürkaynak, Esq., Ayşe Güner, Esq., Sinan Diniz and Janelle Filson, Esq., European Journal of Law and Economics, October 27, 2015.*
- *"Competition Law and Personal Data Crossing in Digital Markets", by Gönenç Gürkaynak, Esq., Ayşe Güner, Esq., Ayşe Gizem Yaşar for Ian S. Forrester QC LL.D. A Scot without Borders, Liber Amicorum - Volume II, Concurrences Review, 2015.*
- *"Turkish Competition Authority's Sector Inquiries: Past and Current Sector Inquiries Reviewed", by Gönenç Gürkaynak, Esq., Ayşe Güner, Esq., and Ayşe Gizem Yaşar, The Turkish Commercial Law Review, February 2015.*

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Qualified. California, 2009

Areas of practice. Competition law; corporate law; commercial law; mergers and acquisitions.

Recent transactions

- Represented Deutsche Bahn Group of companies (Schenker & Co AG, Schenker A.E., Schenker Arkas Nakliyat ve Ticaret A.Ş. and Fertrans AG) in an investigation conducted by the Turkish Competition Authority against nine companies active in the railway freight forwarding services market.
- Merger control filing with the Competition Board for the acquisition of sole control of SABMiller plc. by Anheuser-Busch In Bev.

Languages. English, German

Professional associations/memberships. California Bar (since 2009)

Publications

- *"Most-favored-nation Clauses in Commercial Contracts: Legal and Economic Analysis and Proposal For a Guideline", by Gönenç Gürkaynak, Esq., Ayşe Güner, Esq., Sinan Diniz and Janelle Filson, Esq., European Journal of Law and Economics, October 27, 2015.*
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