
THE INTELLECTUAL PROPERTY AND ANTITRUST REVIEW

EDITOR
THOMAS VINJE

LAW BUSINESS RESEARCH

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EDITOR'S PREFACE

Intellectual property is taking a more and more central position in the global economy, and this is true not only in highly developed economies, but also in emerging economies. China and India, to take just two examples, are moving rapidly up the value chain and now have world-class technology companies for which intellectual property protection is crucial.

As the significance of intellectual property grows, so too does the relationship between intellectual property and antitrust law. Antitrust law constrains the exercise of intellectual property rights in certain circumstances, and both owners and users of intellectual property rights need to know how the two bodies of law interact and where antitrust draws lines for intellectual property. Intellectual property practitioners need to look beyond intellectual property laws themselves to understand the antitrust limits on the free exercise of rights.

The task of this book is, with respect to key jurisdictions globally, to provide an annual concrete and practical overview of developments on the relationship between antitrust and intellectual property. This edition, as the first edition, provides not only an update on recent developments but also an overview of the overall existing lay of the land regarding the relationship between the two bodies of law.

Key topics covered in this and future editions include the constraints imposed by antitrust on licensing, the circumstances under which a refusal to license intellectual property rights can be unlawful, the imposition of antitrust obligations on owners of standard-essential patents, the application of antitrust law to cross-border e-commerce, the growing importance of intellectual property issues in merger cases, and the intense disputes regarding the application of antitrust law to patent settlements in the pharmaceutical industry.

As intellectual property continues to gain importance in the world economy, and as the number, resources and sophistication of antitrust authorities grows across the globe, new battles will be fought over the circumstances in which antitrust constrains intellectual property. Existing differences in the application of antitrust to intellectual property – already significant, and perhaps even greater than in intellectual property laws themselves – may grow,

perhaps especially as more net intellectual property-consuming countries devote resources to antitrust enforcement. Future editions of this book will analyse these developments and we hope the reader will find this to be a useful compilation and oft-consulted guide.

Finally, I would like to thank Ashwin van Rooijen, Milena Robotham and Axelle D'heygere for their important contributions to this first edition of *The Intellectual Property and Antitrust Review*.

Thomas Vinje

Clifford Chance LLP

Brussels

August 2016

Chapter 12

TURKEY

Gönenç Gürkaynak and Ayşe Güner¹

I INTRODUCTION

There is no law that regulates the interaction between competition law and intellectual property law in Turkey and both sets of law are regulated under different legislation. Under Turkish law, intellectual property law (IP law) seeks to protect the owners' exclusive control over their intellectual assets, and competition law aims to ensure effective competition in the marketplace and prevent anticompetitive actions such as cartels and abuse of dominance, etc.

Moreover, under Turkish law, legal regulations related to intellectual property rights (IP rights) confer exclusive rights on the right holders. The owner of intellectual property is entitled under the relevant legal regulations to exploit the subject of the right exclusively, to prevent illegal use of it by third parties and confer the right to use it by licensing it to third parties. The fact that legal regulations related to intellectual property grant exclusive rights of exploitation to right holders does not imply that IP rights are immune from the area of application of the competition law. Article 4 (restrictive agreements), Article 5 (individual exemption conditions) and Article 6 (dominance) of Law No. 4054 on the Protection of Competition (the Competition Law) are also applicable to agreements whereby the holder of IP rights licenses another undertaking to exploit its IP rights. Overall, it would be prudent to consider IP law and competition law as complementary concepts rather than considering them as contradictory.

The main legislation for the competition law regime in Turkey is the Competition Law. The Turkish competition law regime consists of three main branches: (1) restrictive agreements, concerted practices and cartels, (2) dominance, and (3) merger control. The national competition authority for enforcing competition law in Turkey is the Turkish Competition Authority (TCA). Under the current Turkish competition law regime, the general competition law enforcement structure is also applicable for IP rights.

¹ Gönenç Gürkaynak is the managing partner and Ayşe Güner is a counsel at ELIG, Attorneys at Law.

Within the framework of competition law, the secondary law that relates to the interaction between antitrust and IP law is as follows:

- a* Block Exemption Communiqué No. 2008/2 on Technology Transfer Agreements (Communiqué No. 2008/2), which provides a protective cloak for agreements involving the transfer of IP rights and in particular technology licensing agreements;
- b* Block Exemption Communiqué No. 2016/5 on R&D Agreements (Communiqué No. 2016/5), which provides a block exemption for research and development (R&D) agreements, including an exemption for R&D agreements that contain provisions relating to the assignment or licensing of IP rights in order to carry out joint R&D, paid-for R&D or joint exploitation, so long as those provisions are not the primary object of such agreements, but are instead directly related to and necessary for their implementation;
- c* Block Exemption Communiqué No. 2002/2 on Vertical Agreements (Communiqué No. 2002/2) applies to standardisation, franchise and contract manufacturing agreements to the extent they satisfy the conditions set out in the relevant communiqué; and
- d* Block Exemption Communiqué No. 2013/3 on Specialisation Agreements (Communiqué No. 2013/3) establishes the conditions for granting block exemptions to specialisation agreements between undertakings and extends this exemption to licensing or intellectual property transfer agreements that are directly related to, or necessary for, the functioning of the exempted specialisation agreements.

In terms of IP law, there are a range of criminal, civil and administrative laws to protect IP rights which cover a range of fields, including copyrights, trademarks, patents and trade secrets, among others. Turkey is a signatory or a party to various international and bilateral agreements, conventions and treaties, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the Strasbourg Agreement Concerning the International Patent Classification, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of Registration of Marks, the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks, and the European Patent Convention.

II YEAR IN REVIEW

With regard to relevant legislative amendments, Communiqué No. 2016/5 was adopted, which replaces the previous relevant legislation (i.e., Block Exemption Communiqué No. 2003/2 on R&D Agreements (Communiqué No. 2003/2)). In line with the EU Regulation on R&D Agreements, the terms ‘know-how’ and ‘trade secrets’, which were not included within the scope of Communiqué No. 2003/2, have been defined in Communiqué No. 2016/5. Also parallel to the EU Regulation on R&D Agreements, excluded restrictions under Communiqué No. 2016/5 include (i) restricting the right to challenge the validity of the related IP rights after completion of the R&D; and (ii) restricting the right to grant licences to third parties to manufacture the contract products or to apply to contract technologies, where the agreement does not provide for the joint exploitation of R&D results or such exploitation does not in fact take place. Under Communiqué No. 2003/2, both of these

restrictions were considered as hard-core restrictions which would have excluded the entire agreement from the benefit of the block exemption, whereas under the current regulation, if they are included in an R&D agreement, while the exemption would not apply to these obligations the block exemption may still be applied to the rest of the agreement.

There have also been some recent cases that pertain to the IP rights and competition law intersection that are summarised below.

In *Google* (28 December 2015, No. 15-46/766-281), the Turkish Competition Board (the Board) launched a preliminary investigation following a complaint brought by Yandex (a competing search engine), alleging that several agreements made by Google with original equipment manufacturers violated Articles 4 and 6 of the Competition Law. Yandex claimed that an original equipment manufacturer wishing to use the Android operating system would be obligated to pre-install Google searching services, Google applications and the Google application store and thus are bundled with Google products, and that Google excludes the competitors from the market by its revenue-sharing agreements whereby Google contracts with the manufacturers regarding sharing of the revenue generated from Google search results or applications. While the Board decided not to launch an investigation, it tasked the Presidency to send an opinion to Google indicating to remove anticompetitive provisions in its agreements with original equipment manufacturers and to terminate its related practices according to Article 9(3) of the Competition Law.

In *Siemens* (8 January 2015, No. 15-02/5-3), the Board evaluated the allegations against Siemens and its distributors in Turkey (Boğaziçi Yazılım and BCC Yazılım). The allegations concerned the violation of Articles 4 and 6 of the Competition Law by Siemens and its distributors in Turkey through refusing to supply and to apply discriminatory practices to Eksa Kalıp. The Board stated that in order for a discriminatory practice to constitute a violation, as foreseen under Article 6 of the Competition Law, the discriminatory practice should be made among 'purchasers with equal status'. The Board concluded that Eksa Kalıp could not hold an equal status with Siemens' other customers as it violated Siemens' IP rights by using unlicensed software. Therefore, the Board concluded that Siemens not providing the relevant software to Eksa Kalıp would not be considered as a discriminatory practice because Eksa Kalıp violated Siemens' IP rights and thus lost its 'equal status'.

In *Association of Advertising Agencies* (9 January 2014, No. 14-01/1-1), the Board accepted that the relevant product market, which is defined as 'the market for creative advertising services', should not be evaluated the same as the traditional markets which concern the purchase and sale of products. The Board stated that the market for creative advertising services contains a number of IP rights as a creative thinking process is the first step of the final services provided under this market, and thus decided that a market consisting of services and products dependent on IP rights differentiates from the classic purchase and sale of goods markets. This decision is particularly significant as the Board has distinguished markets associated with IP rights from the traditional markets that concern the purchase and sale of products.

III LICENSING AND ANTITRUST

i Anticompetitive restraints

Article 4 of the Competition Law is akin to and closely modelled on Article 101(1) of the Treaty on the Functioning of the European Union (TFEU). It prohibits all agreements between undertakings, decisions of associations of undertakings and concerted practices

that have (or may have) as their object or effect the prevention, restriction or distortion of competition within a Turkish product or services market or a part thereof. Article 5 of the Competition Law provides that the prohibition contained in Article 4 may be declared inapplicable in the case of agreements between undertakings:

- a* that contribute to improving the production or distribution of products, or to promoting technical or economic progress;
- b* that allow consumers a fair share of the resulting benefits;
- c* that do not impose restrictions which are not indispensable to the attainment of these objectives; and
- d* that do not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products concerned.

This individual exemption test is done on a case-by-case basis.

The general provisions of Turkish competition law regulating anticompetitive agreements apply in cases of obtaining, granting or transfer of IPRs, to the extent they fail to meet the conditions of a block or individual exemption. Such agreements are likely to be deemed anticompetitive where they contain resale price maintenance, regional restraints, quantitative restraints on production or sales, customer allocation and selective distribution systems (Block Exemption Communiqués No. 2002/2 and No. 2008/2 on Vertical Agreements and on Technology Transfer Agreements).

ii Refusals to license

There is currently no specific provision under Turkish competition law regulating the unilateral conduct or refusal to license in the scope of IP rights. Under Article 6 of the Competition Law, all undertakings are bound with the obligation not to abuse their dominant positions. Therefore, the general provisions of Article 6 would also apply to refusal to license situations.

Refusal to license can be a form of abuse of dominance, which was established by the landmark decision of *Turkcell/Telsim* (9 June 2003, No. 03-40/432-186). This judgment sets out the basis of the criteria required to establish an abuse of dominance for refusal to supply in IP-related markets. The Board identified the following conditions that are necessary to establish an abusive refusal to supply:

- a* the access to IP rights is essential to the competitors for entry into the market;
- b* there exists sufficient capacity to supply the demand;
- c* the undertaking controlling the essential facility is no longer able to supply the demand on the market or impedes competition on existing or potential services and products;
- d* the undertaking requesting access to the IP rights is ready to pay a reasonable and non-discriminatory indemnity for access; and
- e* there exists no reasonable justification for denial.

Although over a decade has passed since the *Turkcell/Telsim* case, the Board's most recent decisions on point reaffirm the position taken, such as in *Krea İçerik Hizmetleri* (9 September 2015, No. 15-36/544-176); *Surat Basım/Zambak* (19 March 2013, No. 13-15/230-114); and *Digital Platform* (3 May 2012, No. 12-24/710-198).

The Board also reviewed the abuse of dominance with respect to tying and bundling practices, where the licensing of IP rights was tied to the licensing of other IP rights (*Logo*

Yazilim, 28 April 2011, No. 11-26/497-154) or rebate systems in the sales of computer software (*Microsoft*, 13 June 2013, No. 13-36/481-211). In these cases, the Board applied the general provisions of Article 6 and did not adapt a particular standpoint as regards IP rights.

iii Unfair and discriminatory licensing

Similar to refusals to license, the general provisions of Article 6 of the Competition Law on the abuse of dominant position would also be applicable to unfair and discriminatory licensing as there are currently no specific provisions under Turkish competition legislation regulating unfair and discriminatory licensing. An undertaking holding a dominant position risks abuse of dominant position in case of discrimination in licensing fees, discrimination in providing the main IP rights required for a certain activity or through offering different terms to purchasers with equal status for the same and equal rights, obligations and acts. Similarly, refusal to license may be found to be abusive where it is discriminatory.

In any event, discriminatory conditions imposed by an undertaking holding a dominant position are governed under Article 6 of the Competition Law.

iv Patent pooling

Patent pooling has been referred to as ‘technology pooling’ in the Guidelines on Technology Transfer Agreements, which define technology pools as agreements where two or more parties agree to assemble their technologies and create pool and license them as a package. The concept of technology pool also covers arrangements whereby two or more parties agree to license the package of technologies in question to a third party and empower that party to license the package. However, the Guidelines on Technology Transfer Agreements do not cover such arrangements and thus patent pools are subject to the general provisions of Article 4 of the Competition Law. If all the conditions of individual exemption are satisfied, patent pools may also benefit from the individual exemption under Article 5 of the Competition Law.

While there has been no prior case law dealing specifically with patent pooling or technology pooling arrangements, it can be said that the patent pooling arrangements would generally be viewed as creating pro-competitive efficiencies. That said, the patent pooling arrangements should not be used in an anticompetitive manner so as to fix prices, allocate markets or restrict output, which would be in violation of Competition Law.

v Software licensing

Provided certain conditions are met, Communiqué No. 2008/2 provides for a protective cloak for agreements involving the transfer of IP rights and in particular technology licensing agreements. A technology transfer agreement is an agreement where a licensor authorises another party (licensee) to use its technology (patent, know-how, software licence) for the production of goods and services subject to the licence agreement. The exemption applies to sub-licensing as well, provided that they are granted to third parties by the licensee solely in relation to the licensed technology.

Communiqué No. 2008/2 is applicable only if certain market share thresholds are not exceeded: for licensing agreements between competing undertakings, the aggregate market share of the parties should not exceed 30 per cent in the affected technology market. The threshold is 40 per cent in the case of licensing agreements between non-competing undertakings. Hard-core restrictions, such as the restriction of a party’s ability to determine

its prices when selling products to third parties (i.e., resale price maintenance), territory and/or customer restrictions, and non-compete obligations are also listed in Article 6 of Communiqué No. 2008/2.

vi Trademark licensing

The Guidelines on Technology Transfer Agreements provide that a licensor may authorise a licensee to use its trademark on the products incorporating the licensed technology, as this trademark allows consumers to make an immediate link between the product and the characteristics imputed to it by the licensed technology. However, if the value of the licensed technology is limited because the licensee already uses the same or similar technology and the main objective of the agreement is the trademark, then the licensing agreement will not benefit from the block exemption provided under Communiqué No. 2008/2. That said, under Article 6 of the Competition Law, all undertakings are bound with the obligation not to abuse their dominant positions. The abuse of dominant position can occur in case of discrimination in trademark licensing fees, discrimination in providing the trademark licence and offering different terms to purchasers with equal status for the same and equal rights, obligations and acts and if found to be abusive, in case of refusal to license the trademark. Therefore, the general provisions of Article 6 of the Competition Law would also apply to the licensing of trademarks.

IV STANDARD-ESSENTIAL PATENTS

i Dominance

Standard-essential patents could provide substantial market power to their holders. Any abuse by an undertaking that is in a dominant position in a market for goods or services within the whole or part of Turkey is considered as abuse of dominant position regardless of whether it is on the part of one or more undertakings, individually or through joint agreements. Article 6 of the Competition Law prohibits the actions of dominant firms that are abusive and causing hindrances to the competition in the market.

The Board has not so far considered the issue of standardisation as far as its intersection with standard-essential patents and any potential abuse of dominant position claims. Nevertheless, general provisions of the competition law legislation in Turkey would be applicable to any related issues, such as patent ambush, hold-up, refusal to license, etc. Hence, such arrangements and practices would be closely scrutinised under the applicable relevant provisions under Turkish laws.

ii Injunctions

Pursuant to Article 389 of the Turkish Civil Procedure Law, in the event of a suspicion that it would be considerably difficult or totally impossible to earn a right due to a change in the existing circumstances or that a drawback or severe losses may arise due to a delay, an injunction may be established in connection with the issue under dispute. Requests for injunction may be addressed to the competent courts.

In addition, pursuant to Article 9(4) of the Competition Law, where the occurrence of serious and irreparable damages is likely until the final decision is taken, the Board may take interim measures that have the nature of maintaining the situation before the infringement and which shall not exceed the scope of the final decision.

As far as seeking an injunction on the basis of standard-essential patents and its interplay with competition law, this issue has not so far been considered by the Board.

iii Licensing under FRAND terms

As standardisation generally occurs as a result of coordinated actions made by several undertakings, the issues would therefore fall within the scope of Article 4 of the Competition Law. As there is no specific legislation applicable to industrial standards as far as competition law is concerned, the Guidelines on Horizontal Cooperation Agreements would be relevant for determining the propriety of the industrial standards.

According to the Guidelines on Horizontal Cooperation Agreements, FRAND commitments are designed to ensure that any essential technology under IP rights protection incorporated in a standard is accessible to the users of that standard on a fair, reasonable and non-discriminatory basis. Further, according to the relevant guidelines, these commitments can prevent IP right holders from making the implementation of a standard difficult by refusing to license or by requesting unfair or unreasonable (excessive) fees or discriminatory fees after the industry has been locked in to a standard. The assessment of whether the agreement restricts competition must analyse the issue of access to the standard.

As the Board has not so far considered standard-essential patents and competition law intersection (or IP rights in the standardisation process in general), the Board's approach on standardisation agreements may be considered by analogy. In *Yonga Levha* (14 August 2003, No. 03-56/650-298), the Board evaluated the application of a negative clearance in regards to standardisation decision made by Turkish Particle Board Industrialists Association concerning setting a standard of particle boards which are subject to numerous patents registered to the Turkish Patent Institute. The Board considered the agreement as a standardisation agreement and evaluated the application pursuant to Article 4 of the Competition Law. The Board decided to grant a negative clearance for the application of the association. This decision can be considered as the first decision that the Board has ever evaluated concerning the concept of standardisation under the Turkish competition law regime.

There is also *Turkish Pharmacists' Association* (15 November 2007, No. 07-86/1088-422), where the Board evaluated the standardisation agreement according to its purposes. In the decision, it was alleged that Turkish Pharmacists' Association granting a conformity certification for signboards of all pharmacies constituted a violation of the Competition Law. The Board examined the purposes of such application and decided that the application was proportionate under the Turkish competition law regime. Accordingly, the complaint petition was rejected by the Board.

More recently, in *Turkish Steel Manufacturers Association* (30 April 2014, No. 14-16/304-133), the Board evaluated the case pursuant to Articles 4 and 5 of the Competition Law. The Board also mentioned, while evaluating the purchase conditions of wastes, the purchase conditions contained fair, reasonable and non-discriminatory provisions that were unlikely to raise competitive concerns within the relevant markets. To sum up, the Board concluded that the standard conditions met the requirements of individual exemption.

As indicated above, there are only few instances where the Board has evaluated standardisation agreements. It is fair to say that the application of standardisation is not as common in Turkey as it is in other jurisdictions such as the EU.

iv Anticompetitive or exclusionary royalties

Under Turkish competition law, there is no regulation on the royalty rates or the calculation elements of the royalty calculation. Nevertheless, according to the Guidelines on Horizontal Cooperation Agreements, the assessment as to whether the fees charged for access to IP rights in the standard-setting context are unfair or unreasonable would be based on whether there is a reasonable relationship between these fees and the economic value of the IP rights. Licensing fees charged for the same IP rights within the context of similar standards may also be used as an indicator for FRAND licensing fees. However, the guidelines do not include an exhaustive list of appropriate methods to assess whether licensing fees are excessive. Also, an independent expert analysis may be requested, stating that the relevant IP rights portfolio is objectively important and essential for the standard at issue. In certain cases, it may also be possible to refer to *ex ante* disclosures concerning licensing terms in relation to a specific standard-setting process.

In conclusion, where the royalty is so excessive so as to be contrary to FRAND commitments, then this could raise an issue under Article 6 of the Competition Law.

V INTELLECTUAL PROPERTY AND MERGERS

i Transfer of IP rights constituting a merger

Concentrations that result in a permanent change of control (either sole or joint control) are subject to the Board's approval, provided they exceed the applicable turnover thresholds.

A transaction that involves the acquisition of IP rights such as brands, patents, designs or copyrights would be deemed a merger or an acquisition within the meaning of the Turkish merger control regime so long as the relevant IP rights constitute a business with a market turnover. In *Mey/Anadolu Efes*, the transaction concerned the acquisition of a certain trademark in the sector for beer (25 August 2009, No. 09-38/925-218). In this decision, the Board deemed the transaction as an acquisition within the scope of the merger control regime and approved it. More recently in *ACC Austria* (27 September 2013, No. 13-55/758-318), which concerns the acquisition of ACC Austria's tangible and intangible assets such as office consumables, several licences, trademark and patent rights and other IP rights by Secop GmbH, the Board deemed the transaction an acquisition.

ii Remedies involving divestitures of intellectual property

The Board is likely to challenge concentrations that create or strengthen a dominant position, which would result in a significant lessening of competition in a market for goods or services within the whole or a part of Turkey. The acquisition of IP rights would not be an exception to this rule, and thus would be evaluated under the same test to assess whether the competitive problems arise from a market position gained as a result of the relevant IP rights.

In (exceptional) cases where the competitive problems arise from a market position based on the superiority of owning a certain technology or IP right, the divestiture of the said technology or IP right may be considered as a suitable remedy (Guidelines on Remedies that are Acceptable by the Turkish Competition Authority in Mergers/Acquisition Transactions). A divestiture package that includes only trademarks and relevant production and/or distribution assets may only be accepted as a suitable remedy if sufficient proof is adduced showing that at the hands of a suitable purchaser the said package would turn into a competitive and viable asset immediately (Guidelines on Remedies that are Acceptable

by the Turkish Competition Authority in Mergers/Acquisition Transactions). The Board is familiar with cases where the remedies partly involve divestiture of IP rights such as certain trademarks and brands (e.g., *Mey İçki* (17 August 2011, No. 11-45/1043-356)).

VI OTHER ABUSES

i Sham or vexatious IP litigation

While there has been no prior case law under Turkish competition law practice dealing specifically with sham or vexatious IP litigation cases and competition law intersection, such arrangements and practices would be closely scrutinised under the applicable provisions of Turkish competition laws.

ii Misuse of the patent process

While there has been no prior case law under Turkish competition law practice dealing specifically with a misuse of the patent process (e.g., misleading patent offices or misusing the patent system to gain a competitive advantage) and competition law intersection, such arrangements and practices would be closely scrutinised under the applicable relevant provisions under Turkish laws, especially under Article 6 of the Competition Law dealing with abuse of a dominant position.

iii Anticompetitive settlements of IP disputes

Turkish competition law is yet to witness the practice of manipulation of the patent process and its interaction with competition law, or other practices such as artificially extending the term or geographical scope of patent protection, or enforcing patents obtained through fraud or anticompetitive settlements of intellectual property disputes or pay-for-delay arrangements. Nevertheless, such arrangements and practices would be closely scrutinised under the applicable relevant provisions under Turkish laws.

VII OUTLOOK AND CONCLUSIONS

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 could be 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: (1) conformity with the EU competition law legislation; (2) introduction of the EU's SIEC (significant impediment of effective competition) test instead of the current dominance test; (3) adoption of the term of 'concentration' as an umbrella term for mergers and acquisitions; (4) elimination of the exemption of acquisition by inheritance; (5) abandonment of the Phase II procedure; (6) extension of the appraisal period for concentrations from the current 30-calendar-day period to 30 working days; and (7) 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.

Appendix 1

ABOUT THE AUTHORS

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ELIG, Attorneys-At-Law

Gönenç Gürkaynak is a founding partner and the managing partner of ELIG, Attorneys-at-Law, a leading law firm of 65 lawyers based in Istanbul. He holds an LLM degree from Harvard Law School, and is qualified to practise in Istanbul, New York, Brussels and England and Wales (currently non-practising solicitor). Gürkaynak heads the competition and regulatory department of ELIG, which currently consists of 36 competition law specialists. He has unparalleled experience in all matters of Turkish Competition Law counselling, with over 18 years' experience dating from the establishment of the Turkish Competition Authority. Before founding ELIG more than 10 years ago, Gürkaynak worked as an attorney at the Istanbul, New York and Brussels offices of a global law firm for more than eight years. Gürkaynak frequently speaks at conferences and symposia on competition law matters. He teaches undergraduate and graduate-level courses at two universities, and gives lectures at other universities in Turkey. He has had many international and local articles published in English and in Turkish, and is the author of a book published by the Turkish Competition Authority.

AYŞE GÜNER

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Ayşe Güner is a counsel in the competition and regulatory department of ELIG. Güner received her JD in 2008 from the Southern Methodist University Dedman School of Law in Dallas, Texas, and received her LLM degree from Maastricht University, in the Netherlands. She is qualified in California. She has assisted Gönenç Gürkaynak with numerous complex matters requiring counselling under the Turkish Competition Law and related laws. Güner has also published many articles in collaboration with Mr Gürkaynak, and she is particularly experienced in merger control matters.

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