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The European, Middle Eastern and African Antitrust Review 2019

A Global Competition Review Special Report

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The European, Middle Eastern and African Antitrust Review 2019

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Global Competition Review is delighted to publish 2019 edition of *The European, Middle Eastern & African Antitrust Review*, one of a series of three special reports that have been conceived to deliver specialist intelligence and research to our readers – general counsel, government agencies and private practice lawyers – who must navigate the world's increasingly complex competition regimes.

Like its sister reports, *The Antitrust Review of the Americas* and *The Asia-Pacific Antitrust Review*, *The European, Middle Eastern & African Antitrust Review* provides an unparalleled annual update, from competition enforcers and leading practitioners, on key developments in the field.

In preparing this report, *Global Competition Review* has worked with leading competition lawyers and government officials. Their knowledge and experience – and above all their ability to put law and policy into context – give the report special value. We are grateful to all of the contributors and their firms for their time and commitment to the publication.

Although every effort has been made to ensure that all the matters of concern to readers are covered, competition law is a complex and fast-changing field of practice, and therefore specific legal advice should always be sought. Subscribers to *Global Competition Review* will receive regular updates on any changes to relevant laws over the coming year.

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Turkey: Dominance

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In Turkey, unilateral conduct of a dominant undertaking is restricted by article 6 of the Law on the Protection of Competition (Law No. 4054), which provides that 'any abuse on the part of one or more undertakings, individually or through joint venture agreements or practices, of a dominant position in a market for goods or services within the whole or part of the country is unlawful and prohibited'. Although article 6 of Law No. 4054 does not define what constitutes 'abuse' per se, it provides five examples of forbidden abusive behaviour, which is a non-exhaustive list and is akin to article 102 of the Treaty on the Functioning of the European Union (TFEU). These examples include the following:

- directly or indirectly preventing entries into the market or hindering competitor activity in the market;
- directly or indirectly engaging in discriminatory behaviour by applying dissimilar conditions to equivalent transactions with similar trading parties;
- making the conclusion of contracts subject to acceptance by the other parties of restrictions concerning resale conditions such as the purchase of other goods and services, or acceptance by the intermediary purchasers of displaying other goods and services or maintenance of a minimum resale price;
- distorting competition in other markets by taking advantage of financial, technological and commercial superiorities in the dominated market; and
- limiting production, markets or technical development to the prejudice of consumers.

The article 6 prohibition applies only to dominant undertakings. Dominance itself is not prohibited; only the abuse of dominance is outlawed. Thus, article 6 does not penalise an undertaking that has captured a dominant share of the market because of superior performance.

Dominance provisions apply to all companies and individuals to the extent that they qualify as an undertaking, which is defined as a single integrated economic unit capable of acting independently in the market to produce, market or sell goods and services. Notably, state-owned and state-affiliated entities also fall within the scope of the application of article 6 (*Devlet Hava Meydanları İşletmesi*, No. 15-36/559-182, 9 September 2015; *Turkish Coal Enterprise*, No. 04-66/949-227, 19 October 2004 and *Türk Telekom*, No. 14-35/697-309, 24 September 2014).

Dominance

The definition of dominance can be found under article 3 of Law No. 4054 as 'the power of one or more undertakings in a certain market to determine economic parameters such as price, output, supply and distribution independently from competitors and customers'. Enforcement trends show that the Turkish Competition Board (the Board) is increasingly inclined to broaden the scope of application of the article 6 prohibition by diluting the 'independence from competitors and customers' element of the definition to infer dominance even in cases where clear dependence or interdependence on either competitors or customers exist (ie, *Anadolu Cam*, No. 04-76/1086-271, 1 December 2004 and *Warner Bros*, No. 05-18/224-66, 24 March 2005).

Dominance in a market is the primary condition for the application of article 6. To establish a dominant position, the relevant market must be defined first and then the market position must be determined. The relevant product market includes all goods or services that are substitutable from a customer's point of view. The Board has issued Guidelines on the Definition of Relevant Market (the Guidelines) on 10 January 2008, with the goal of minimising the uncertainties that undertakings may face and to state the method used by the Board in its decision-making practice for defining a relevant product and geographic market. The Guidelines are closely modelled on the Commission Notice on the Definition of Relevant Market for the Purposes of Community Competition Law (97/C 372/03) and apply to both merger control and dominance cases. The Guidelines consider the demand-side substitution as the primary standpoint of market definition, and the supply-side substitution and potential competition as secondary factors.

Under Turkish competition law, the market share of an undertaking is the primary step for evaluating its position in the market. In theory, there is no market share threshold above which an undertaking will be presumed to be dominant. Although not directly applicable to dominance cases, the Guidelines on Horizontal Mergers confirm that companies with market shares in excess of 50 per cent may be presumed to be dominant. On the other hand, pursuant to the Turkish Competition Authority (the Authority) Guidelines on the Assessment of Exclusionary Abusive Conduct by Dominant Undertakings published on 29 January 2014 and the Board's respective precedents, an undertaking with a market share of 40 per cent is a likely candidate for dominance, whereas a firm with a market share of less than 25 per cent would not generally be considered dominant (*Mediamarkt*, No. 10-36/575-205, 12 May 2010, *Pepsi Cola*, No. 10-52/956-335, 5 August 2010 and *Egetek*, No. 10-62/1286-487, 30 September 2010).

In assessing dominance, although high market shares are considered as the most indicative factor of dominance, the Board takes other factors into account, such as legal or economic barriers to entry, the market structure, the competitors' market positions, portfolio power and financial power of an incumbent firm. Thus, domination of a given market cannot be defined solely on the basis of the market share held by an undertaking or of other quantitative elements; other market conditions as well as the overall structure of the relevant market should be assessed in detail.

In addition, while mergers and acquisitions, by way of which an undertaking attempts to establish dominance or strengthen its dominant position, are regulated by the merger control rules established under article 7 of Law No. 4054. If the Board comes to the conclusion that 'a restriction of effective competition' element is present in the transaction at hand, the relevant transaction is deemed

illegal and thus prohibited. Therefore, the principles laid down in merger decisions can also be applied to cases involving the abuse of dominance. For instance, recently the Turkish Competition Board (the Competition Board) rejected the acquisition of Ulusoy Ro-Ro by UN Ro-Ro as it concluded that the transaction will strengthen UN Ro-Ro's dominant position in the market for Ro-Ro transport between Turkey and Europe; UN Ro-Ro will be in a dominant position in the market for port management concerning Ro-Ro ships upon the consummation of the transaction.

Collective dominance

Collective dominance is also covered by Law No. 4054, as indicated in the aforementioned definition provided in article 6. On the other hand, precedents concerning collective dominance are not abundant and mature enough to allow for a clear inference of a set of minimum conditions under which collective dominance should be alleged. That said, the Competition Board has considered it necessary to establish an economic link for a finding of abuse of collective dominance (eg, *Biryay*, No. 00-26/292-162, 17 July 2000; *Turkcell/Telsim* No. 03-40/432-186, 9 June 2003).

Abuse

As mentioned above, the definition of abuse is not provided under article 6 of Law No. 4054. This provision only contains a non-exhaustive list of certain forms of abuse. Moreover, article 2 of Law No. 4054 adopts an effects-based approach for identifying anticompetitive conduct, with the result that the determining factor in assessing whether a practice amounts to an abuse is the effect produced on the market, regardless of the type of conduct at issue. Notably, the concept of abuse covers exploitative, exclusionary and discriminatory practices.

Theoretically, a causal link must be shown between dominance and abuse. The Board does not yet apply a stringent test of causality, and has inferred abuse from the same set of circumstantial evidence employed in demonstrating the existence of dominance.

Furthermore, abusive conduct on a market different to that which is subject to dominant position is also prohibited under article 6. Accordingly, the Board found that incumbent undertakings had infringed article 6 by engaging in abusive conduct in markets that were neighbouring to the dominated market (ie, *Türk Telekom*, 16-20/326-146, 9 June 2016, *Volkan Metro*, No. 13-67/928-390, 2 December 2013 and *Türk Telekom/TTNet*, 08-65/1055-411, 19 November 2008.)

Specific forms of abuse

Exclusionary abuses

Exclusionary pricing

Predatory pricing may amount to a form of abuse, as evidenced by many precedents of the Board. That said, high standards are usually observed for bringing forward predatory pricing claims. Nonetheless, in the *UN Ro-Ro* case, UN Ro-Ro was found to abuse its dominant position through predatory pricing and faced administrative monetary fines (*UN Ro-Ro*, 12-47/1412-474, 1 October 2012).

Furthermore, in line with the EU jurisprudence, price squeezes may amount to a form of abuse in Turkey and recent precedents involved an imposition of monetary fines on the basis of price squeezing. The Board is known to closely scrutinise price-squeezing allegations (*TTNet*, 07-59/676-235, 9 October 2007, *Doğan Dağıtım*, 07–78/962–364, 9 October 2007, *Türk Telekom*, 04-66/956-232, 19 October 2004 and *Türk Telekom/TTNet*, 08-65/1055-411, 19 November 2008).

Exclusive dealing

Although exclusive dealing, non-compete provisions and single branding normally fall within the scope of article 4 of Law No. 4054, which governs restrictive agreements, concerted practices and decisions of trade associations, such practices could also be raised within the context of article 6 (*Mey İçki*, 14-21/410-178, 12 June 2014). Indeed, in its earlier precedents, the Board has already found infringements of article 6 on the basis of exclusive dealing arrangements (*Karbogaz*, 05-80/1106-317, 1 December 2005;).

On a separate note, the Block Exemption Communiqué No. 2002/2 on Vertical Agreements no longer exempts exclusive vertical supply agreements of an undertaking holding a market share above 40 per cent. Thus, a dominant undertaking is an unlikely candidate to engage in non-compete provisions and single branding arrangements.

That said, if a vertical agreement qualifies for the block exemption under Communiqué No. 2002/2, conducting exclusive dealing is one of the privileges that the supplier can automatically benefit from. Provisions that extend beyond what is permissible under an appropriately defined exclusive distribution system, such as restriction of passive sales and restriction on the sales of customers of the buyers, cannot benefit from the block exemption provided under Communiqué No. 2002/2 (*Novartis*, July 4, 2012, 12-36/1045-332).

Accordingly, in its recent *Tuborg* decision, the Board evaluated whether the individual exemption granted to the exclusive distribution agreements of Tuborg with its decision of 18 March 2010 (No. 10-24/331-119) should be revoked (9 November 2017, 17-36/583-256). The Board has evaluated the current market structure and determined that the dynamics in the market differ from those in 2010, effectively altering the competitive landscape. To that end, the Board concluded that even though Tuborg's market share in the end of 2016 was below 40 per cent, the relevant agreements do no longer satisfy the condition of 'not eliminating competition in a significant part of the relevant market' and thus, the individual exemption granted to Tuborg in 2010 should be revoked

Additionally, although article 6 does not explicitly refer to rebate schemes as a specific form of abuse, rebate schemes may also be deemed to constitute a form of abusive behaviour. The Board, in *Turkcell* (*Turkcell*, 09-60/1490-37, 23 December 2009), condemned the defendant for abusing its dominance by, inter alia, applying rebate schemes to encourage the use of the Turkcell logo and refusing to offer rebates to buyers that work with its competitors. In addition, with its *Doğan Yayın Holding* decision, the Competition Board has condemned Doğan Yayın Holding for abusing its dominant position in the market for advertisement spaces in the daily newspapers by also applying loyalty-inducing rebate schemes (30 March 2011, 11-18/341-103).

Furthermore, within its *ABBOTT* decision, the Board concluded that in order for any rebate scheme to be deemed a violation of Law No. 4054, it should be primarily analysed whether the relevant undertakings subject to allegations is dominant in the relevant product market or not. (31 January 2013, 13-08/88-49) The Board has further decided that the relevant rebate scheme should be evaluated within the scope of aspects as increasing proportionality, retroactiveness, etc, and it should be determined whether the applied rebate scheme actually has loyalty inducing and foreclosure effects.

Leveraging

Tying and leveraging are among the specific forms of abuse listed in article 6. The Board assessed many tying, bundling and leveraging allegations against dominant undertakings and has ordered

certain behavioural remedies against incumbent telephone and internet operators in some cases, to have them avoid tying and leveraging (*TTNET-ADSL*, 09-07/127-38, 18 February 2009 and *Türk Telekomünikasyon AŞ*, 16-20/326-146, 9 June 2016).

Refusal to deal

Refusals to deal and access to essential facilities are the forms of abuses that are brought before the Competition Authority (the Authority) frequently. Therefore, there are various decisions by the Board concerning this matter (*POAS*, 01-56/554-130, 20 November 2001, *AK-Kim*, 03-76/925-389, 12 April 2003, *Çukurova Elektrik*, 03-72/874-373, 10 November 2003, *Congresium Ato*, 16-35/604-269, 27 October 2016 and *BOTAŞ*, 27 April 2017, 17-14/207-85).

Discrimination

Both price and non-price discrimination may amount to abusive conduct under article 6. The Board has in the past found incumbent undertakings to have infringed article 6 by engaging in discriminatory behaviour concerning prices and other trade conditions (*TTAŞ*, 02-60/755-305, 2 October 2002, *Türk Telekom/TTNet*, 08-65/1055-411, 19 November 2008 and *MEDAŞ* 16-07/134-60, 2 March 2016).

Exploitative abuses

Exploitative prices or terms of supply may be deemed to be an infringement of article 6, although the wording of the law does not contain a specific reference to this concept. The Board has condemned excessive or exploitative pricing by dominant firms (*Tüpraş*, 14-03/60-24, 17 January 2014, *TTAŞ*, 02-60/755-305, 2 October 2002 and *Belko*, 01-17/150-39, 6 April 2001).

In a recent decision (*Soda Sanayii*, 16-14/205-89, 20 April 2016), the Board evaluated excessive pricing allegations against Soda by applying a two-staged economic value test. The Board initially found that Soda maintained a strong and steady market share over the years despite there being no barriers to entry to the market. However, despite the Board's finding that Soda's products cost more than competing products and that Soda's domestic prices and profits were higher than its export prices and profits, the Board stated that the stable market power of Soda may be explained by the fact that Soda's products are more qualified than competing products. The Board thus rejected the allegations against Soda and decided not to initiate a full-fledged investigation. The *Soda Sanayii* decision is important because it gives a glimpse of the Board's approach to excessive pricing cases. Inter alia, the Board held that prohibiting excessive pricing may deter the ability of dominant undertakings to determine prices for the purposes of profit maximisation and that interference should be limited to markets with major barriers to entry and where competitive structure is not expected to be established in the long run. That said, complaints on this basis are frequently dismissed by the Authority because of its welcome reluctance to micro-manage pricing behaviour.

Sector-specific abuse

Since Law No. 4054 does not recognise any sector-specific abuses or defences, certain sectorial independent authorities have competence to control dominance in their relevant sectors. For instance, according to the secondary legislation issued by the Turkish Information and Telecommunication Technologies Authority, firms with a significant market are prohibited from engaging in discriminatory behaviour between companies seeking access to their network and, unless justified, from rejecting requests for access, interconnection or facility sharing. Similar restrictions and requirements are also regulated for the energy sector. Therefore, although sector-specific rules and regulations bring about structural market remedies for the effective functioning of the free market, they do not imply any dominance-control mechanisms and the Competition Authority remains the exclusive regulatory body that investigates and condemns abuses of dominance.

Enforcement

The authority for enforcing competition law in Turkey is the Competition Authority, a legal entity with administrative and financial autonomy. The Authority consists of the Board, presidency and service departments. As the competent body of the Authority, the Board is responsible for, inter alia, investigating and condemning abuses of dominance. The Board has seven members and is seated in Ankara. The service departments consist of five main units. There is a 'sectorial' job definition of each main unit. A research department, a leniency unit, a decision unit, an information management unit, an external relations unit and a strategy development unit assist the five technical divisions and the presidency in the completion of their tasks.

The Board has relatively broad investigative powers. It may request all information it deems necessary from all public institutions and organisations, undertakings and trade associations. Officials of these bodies, undertakings and trade associations are obliged to provide the necessary information within the period fixed by the Board. Failure to comply with a decision ordering the production of information or failure to produce on a timely manner may lead to the imposition of a turnover-based fine of 0.1 per cent of the turnover generated in the financial year preceding the date of the fining decision. Where incorrect or misleading information has been provided in response to a request for information, the same penalty may be imposed.

The Authority is authorised to conduct on-site investigations. Accordingly, the Authority can examine the records, paperwork and documents of undertakings and trade associations and, if need be, take copies of the same; request undertakings and trade associations to provide written or verbal explanations on specific topics; and conduct on-site investigations with regard to any asset of an undertaking.

The Authority is also authorised to conduct dawn raids. A judicial authorisation is obtained by the Board only if the subject undertaking refuses to allow the dawn raid. Computer records are fully examined by the experts of the Authority, including deleted items.

Officials conducting an on-site investigation need to be in possession of a deed of authorisation from the Competition Board. The deed of authorisation must specify the subject matter and purpose of the investigation. Inspectors are not entitled to exercise their investigative powers (ie, copying records, recording statements by company staff, etc) in relation to matters that do not fall within the scope of the investigation (ie, that is written on the deed of authorisation).

Refusing to grant the staff of the Authority access to business premises may lead to the imposition of fines. The minimum amount of fine is set as 21,036 lira for 2018. It may also lead to the imposition of a periodic daily fine of 0.05 per cent of the turnover generated in the financial year preceding the date of the fining decision (if this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision will be taken into account) for each day of the violation.

Sanctions and remedies

The sanctions that could be imposed for abuses of dominance under Law No. 4054 are administrative in nature. In case of a proven abuse of dominance, the incumbent undertakings concerned shall be (each separately) subject to fines of up to 10 per cent of their Turkish turnover generated in the financial year preceding the date of the fining decision. Employees or members of the executive bodies of the undertakings or association of undertakings (or both) that had a determining effect on the creation of the violation are also fined up to 5 per cent of the fine imposed on the undertaking or association of undertakings. In this respect, Law No. 4054 makes reference to article 17 of the Law No. 5326 on Misdemeanours and there is also a Regulation on Fines (Regulation No. 27142 of 16 February 2009). Accordingly, when calculating fines, the Board takes into consideration factors such as the level of fault and amount of possible damage in the relevant market, the market power of the undertakings within the relevant market, duration and recurrence of the infringement, cooperation or driving role of the undertakings in the infringement, financial power of the undertakings, compliance with the commitments and so on, in determining the magnitude of the monetary fine.

In addition to the monetary sanction, the Board is authorised to take all necessary measures to terminate the abusive conduct, to remove all de facto and legal consequences of every action that has been taken unlawfully, and to take all other necessary measures in order to restore the level of competition and status as before the infringement. Additionally, contracts that give way to or serve as a vehicle for an abusive conduct may be deemed invalid and unenforceable because of violation of article 6.

The highest fine imposed to date in relation to abuse of a dominant position is in the *Tüpraş* case where Tüpraş, a Turkish energy company, incurred an administrative monetary fine of 412 million lira, equal to 1 per cent of its annual turnover for the relevant year (*Tüpraş*, 14-03/60-24, 17 January 2014).

Availability of damages

Article 57 and what follows of Law No. 4054 entitle any person who is injured in their business or property by reason of anything forbidden in the antitrust laws to sue the violators to recover up to three times their personal damage, plus litigation costs and attorney fees. In private suits, the incumbent firms are adjudicated before regular civil courts. Because the triple-damages principle allows litigants to obtain three times their loss as compensation, private antitrust litigations increasingly make their presence felt in the article 6 enforcement arena.

Recent enforcement action

The recent enforcement actions indicate that the Authority has started to show increasing attention to the review of most-favoured nation (MFN) clauses. In a recent decision (27 November 2017, 17-30/487-211), the allegations that Yataş, a Turkish furnishing company, was restricting competition by either acting in cooperation with its independent retailers or pressuring them with abusive pricing policies through its 'best price guarantee' campaign were reviewed by the Board. Ultimately, the Board decided not to initiate a full-fledged investigation at the end of the preliminary review process. Other recent instances where the Board conducted a review on MFN clauses include the *Booking.com* (5 January 2017, 17-01/12-4) and *Yemeksepeti* (9 June 2016, 16-20/347-156) decisions.

The ongoing investigations involving abuse of dominance allegations include the high-profile investigations against:

- Mercedes Benz Türk AŞ (initiated on 28 February 2017), concerning alleged abuse of dominance through rebate systems and exclusive contracts made in the concrete pump and concrete pump mounted trucks markets;
- Enerjisa Enerji AŞ's electricity distribution and retail sale companies (initiated on 12 December 2016), concerning alleged abuse of dominance through various applications to hinder independent electricity suppliers' activities; and
- Google Inc, Google International LLC and Google Reklamcılık and Pazarlama Ltd Şti (initiated on 9 February 2017), concerning alleged exclusivity of some applications in the market for mobile operating systems and applications.

The following cases are the most recent landmark decisions regarding abuse of dominance issued by the Board in 2017.

- *Mey İçki* (25 October 2017, 17-34/537-228), in which the Board had ultimately decided that while Mey İçki violated article 6 of Law No. 4054 in the vodka and gin markets, the undertaking has already been subjected to an administrative monetary fine for the consequences of the same strategy in the raki (traditional Turkish spirit) market and therefore a new monetary fine was not sanctioned against Mey İçki due to the 'non bis in idem' principle under Turkish competition law regime.
- In a more recent *Booking.com* decision (5 January 2017, 17-01/12-4), the Board fined Booking.com for abusing its dominant position though imposing MFN clauses in its contracts with the accommodation facilities.

The following are the noteworthy investigations closed with no-fine decisions in 2017:

- *BİLSİNG Automation* (14 December 2017, 17-41/642-281); and
- *Lüleburgaz Şoförler ve Otomobilciler Esnaf Odası* (07 September 2017, 17-28/477-205).

Gönenç Gürkaynak
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Mr Gönenç Gürkaynak is a founding partner of ELIG Gürkaynak Attorneys-at-Law, a leading law firm of 87 lawyers based in Istanbul, Turkey. Mr Gürkaynak graduated from Ankara University, Faculty of Law in 1997, and was called to the Istanbul Bar in 1998. Mr Gürkaynak received his LLM degree from Harvard Law School, and is qualified to practise in Istanbul, New York, Brussels and England and Wales (currently a non-practising solicitor). Before founding ELIG Gürkaynak Attorneys-at-Law in 2005, Mr Gürkaynak worked as an attorney at the Istanbul, New York and Brussels offices of a global law firm for more than eight years.

Mr Gürkaynak heads the competition law and regulatory department of ELIG Gürkaynak Attorneys-at-Law, which currently consists of 45 lawyers. He has unparalleled experience in Turkish competition law counseling issues with more than 20 years of competition law experience, starting with the establishment of the Turkish Competition Authority. Every year Mr Gürkaynak represents multinational companies and large domestic clients in more than 20 written and oral defences in investigations of the Turkish Competition Authority, about 15 antitrust appeal cases in the high administrative court, and over 60 merger clearances of the Turkish Competition Authority, in addition to coordinating various worldwide merger notifications, drafting non-compete agreements and clauses, and preparing hundreds of legal memoranda concerning a wide array of Turkish and European Commission competition law topics.

Mr Gürkaynak frequently speaks at conferences and symposia on competition law matters. He has published more than 150 articles in English and Turkish by various international and local publishers. Mr Gürkaynak also holds teaching positions at undergraduate and graduate levels at two universities, and gives lectures in other universities in Turkey.

M Hakan Özgökçen
ELIG Gürkaynak Attorneys-at-Law

Mr M Hakan Özgökçen joined ELIG Gürkaynak Attorneys-at-Law in 2007. He graduated from Marmara University Law School in 2003 and received an LLM degree from Istanbul Bilgi University during 2010. Mr Özgökçen has been a member of the Istanbul Bar since 2005.

Mr Özgökçen became a partner within the 'Regulatory and Compliance' department of ELIG Gürkaynak Attorneys-at-Law in 2015 and has extensive experience in competition law, mergers and acquisitions, contracts law, administrative law and general corporate law matters. Mr Özgökçen has represented defendants and complainants in complex antitrust investigations concerning all forms of abuse of dominant position allegations, along with merger notifications and clearances, and cartel legislation and enforcement. He has also represented various multinational and national companies before the Turkish Competition Authority and Turkish courts.

In addition, Mr Özgökçen is active in writing and speaking on competition law matters, having authored and co-authored many articles and essays and having spoken at several conferences and symposia.

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ELIG Gürkaynak Attorneys-at-Law is committed to providing its clients with high-quality legal services. We combine a solid knowledge of Turkish law with a business-minded approach to develop legal solutions that meet the ever-changing needs of our clients in their international and domestic operations. Our competition law and regulatory department is led by our partner, Mr Gönenç Gürkaynak, along with three partners, three counsel and 40 associates.

In addition to unparalleled experience in merger control issues, ELIG Gürkaynak has vast experience in defending companies before the Turkish Competition Board in all phases of antitrust investigations, abuse of dominant position cases, leniency handlings and before courts on issues of private enforcement of competition law, along with appeals of the administrative decisions of the Turkish Competition Authority.

ELIG Gürkaynak represents multinational corporations, business associations, investment banks, partnerships and individuals in the widest variety of competition law matters, while also collaborating with many international law firms.

During the past year, ELIG Gürkaynak has been involved in over 60 merger clearances by the Turkish Competition Authority, more than 20 defence projects in investigations, and over 15 antitrust appeals before the administrative courts. ELIG Gürkaynak also provided more than 50 antitrust education seminars to employees of its clients.

ELIG Gürkaynak has an in-depth knowledge of representing defendants and complainants in complex antitrust investigations concerning all forms of abuse of dominant position allegations, and all forms of restrictive horizontal and vertical arrangements, including price-fixing, retail price maintenance, refusal to supply, territorial restrictions and concerted practice allegations.

In addition to significant antitrust litigation expertise, the firm has considerable expertise in administrative law, and is well equipped to represent clients before the High State Court, both on the merits of a case and for injunctive relief. ELIG Gürkaynak also advises clients on a day-to-day basis in a wide range of business transactions that almost always contain antitrust law issues, including distributorship, licensing, franchising and toll manufacturing issues.

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