

# Antitrust/Competition

## A Landmark Decision on Investment Commitments in Turkish Merger Control

Investment commitments are gaining attention as a novel approach to merger control, reflecting a global shift in how competition authorities assess the long-term effects of the transactions. Investment commitments may be considered as part of a wider policy supporting growth, innovation and investment. While discussions continue over the necessity of investment commitments in merger control, the Turkish Competition Authority ("TCA") has recently made a groundbreaking decision by approving, for the first time in its enforcement history, a transaction including an investment commitment.

In its landmark decision, the TCA conditionally cleared the acquisition of Stellantis Otomotiv Pazarlama Anonim Şirketi ("**Stellantis**") by Tofaş Türk Otomobil Anonim Şirketi ("**Tofaş**") as a result of its Phase II investigation. The parties' initial commitments, submitted in 2024, were not considered sufficient and rejected by the TCA. In this regard, the parties proposed revised commitments, including a detailed investment plan, as well as measures relating to distribution and sales channels. According to the TCA's official announcement on the decision, the commitments were not only aimed at enhancing Tofaş's production and export capacity but also at protecting local production. Therefore, the TCA states that positive effects of the investment commitment are expected in the broader automotive supply chain, including increased employment. This announcement indicates a departure from traditional static price/output-based welfare analysis and reflects a broader policy objective based on industrial growth.

This decision places the TCA alongside its global counterparts that have also embraced investment-focused remedies. On December 5, 2024, the UK's Competition and Markets Authority ("**CMA**") cleared the *Vodafone/Three* merger subject to binding commitments including a substantial £11 billion investment to develop a combined 5G network across the UK, aiming to reach 99% of the population. In the decision, the investment commitments were supplemented by short-term consumer protections, such as tariff caps and guaranteed access for mobile virtual network operators, signaling a move away from the CMA's long-standing preference for

structural commitments. At the EU level, the Draghi Report on EU competitiveness strongly advocates a reassessment of merger control in sectors like telecoms. To promote consolidation, the report proposes placing greater emphasis on innovation and investment-related commitments in the EU's merger control framework.

The incorporation of investment commitments in merger approvals represents a significant evolution in competition policy. These developments highlight a broader trend, as competition authorities are increasingly recognizing that in order to support innovation and competitiveness, they must look beyond static market structures and pricing metrics. In this regard, investment commitments may become a powerful policy instrument, one that aligns competition law with broader industrial and innovative goals without compromising competitive market structures. In light of these, The TCA's recent decision on Stellantis/Tofaş acquisition should be seen as a domestic milestone which signals a new era in the TCA's approach to commitments within merger control context.

KOLCUOĞLU  
DEMİRKAN  
KOÇAKLI

THE  
LEGAL  
500



**Neyzar Ünübol**

(Competition Law Counsel)

[nunubol@kolcuoglu.av.tr](mailto:nunubol@kolcuoglu.av.tr)



**Doğa Seylan**

(Associate)

[dseylan@kolcuoglu.av.tr](mailto:dseylan@kolcuoglu.av.tr)





## Practice Area News

**TCA Clears Uber's Acquisition of Trendyol Go.** The TCA approved the acquisition of sole control over and 85% of the shares in Trendyol Go by Uber. Uber is active in the ride-hailing sector in Türkiye and with the transaction, Uber will enter into the online food and grocery delivery market in Türkiye.

**TCA Fines Frito Lay TRY 1.37 Billion for its Exclusivity Practices.** The TCA fined Frito Lay, leading packaged chips producer, TRY 1.37 billion for violating Law No. 4054 through both *de facto* and contractual exclusivity in the traditional retail channel. The TCA also imposed behavioral remedies to restore effective competition, including a requirement to allocate 30% of Frito Lay shelf space to competing brands in sales points where no rival stand is present.

**TCA Fines Five Private High Schools for Concerting on Tuition Fee and Teacher's Salary.** The TCA found that five French private high schools violated Law No. 4054 by concerting on the tuition fees and Turkish teachers' salaries. The TCA imposed administrative fines totaling TRY 21.3 million on five schools for their anti-competitive conduct.

**TCA Issues Gun-Jumping Decision Against Broadcom Inc.** The TCA fined Broadcom Inc. for completing its acquisition of VMware Inc. without notifying the authority, even though the transaction was notifiable under Communiqué No. 2010/4. The decision underscores that foreign-to-foreign transactions must be notified to the TCA if the Turkish turnover thresholds are met, regardless of whether the transaction has a material effect on the Turkish market.

## In the Firm

### • CEE Legal Matters – Deal of the Year Awards

We are pleased to announce that two deals our Firm has worked on have been awarded with the prestigious CEE Legal Matters Deal of the Year 2024 awards for Turkey - Petrol Ofisi's acquisition of British Petroleum's downstream business – and Albania – AYEN AS Energji's EUR 110 million syndicated loan.

