

COMPETITION BOARD'S FIRST DECISION CONCERNING DATA PORTABILITY

The Turkish Competition Board (the "**Board**") announced its final decision on the investigation regarding Nadirkitap Bilişim ve Reklamcılık A.Ş. (Nadirkitap), which is a platform providing intermediary services for the online sales of second-hand books through its website "www.nadirkitap.com." The investigation was launched upon the allegations that Nadirkitap obstructs its rivals' activities to prevent inter platform competition, by not providing the sellers with their own data on Nadirkitap's platform.

The Board decided that the relevant market in which Nadirkitap operates is "the intermediary services in the online sales of second-hand books" and Nadirkitap is in a dominant position in the said market. The Board decided that preventing the sellers' access to data concerning their books' inventory on www.nadirkitap.com and limiting portability of such data without any objective justification constitutes an abuse of dominance within the framework of Article 6 of Law No. 4054 on the Protection of Competition (the "**Law**"). Accordingly, in addition to imposing an administrative fine, the Board imposed an obligation regarding data portability on Nadirkitap. To end the competition law violation and establish effective competition in the market, Nadirkitap will be required to provide accurate, comprehensive, secure and complete book inventory data to the requesting seller conveniently and without any charges.

This decision of the Board is the first to consider the prevention of data portability as a violation of Article 6 of the Law. The main purpose of the obligation to ensure data portability is to prevent the customer or seller from being dependent on a single platform and to reduce cross-platform switching costs. The Board's decision demonstrates its sensitivity regarding data portability

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between digital platforms, in line with the ongoing discussions on this particular issue that are before the European Union and the Organization for Economic Cooperation and Development. As the Board considered the prevention of data portability without any objective justification a violation of competition law, and imposed an obligation on Nadirkitap to provide data portability, the decision is expected to potentially affect online platforms' policies concerning sellers' data.

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