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TURKISH COMPETITION AUTHORITY LAUNCHES SECTOR INQUIRY ON E-COMMERCE PLATFORMS

On 16 July 2020, the Turkish Competition Authority announced that the Competition Board launched a sector inquiry on e-commerce platforms (*i.e.*, e-marketplaces) through its decision dated 11 June 2020 and numbered 20-28/353-M. E-commerce platforms are considered as major players of the online retail channel and the driving force behind the rapid growth of e-commerce in Turkey.¹ The announcement emphasizes that e-commerce platforms are among the leading actors of the new economy and includes the following information regarding the purpose and scope of the sector inquiry:

- E-marketplaces differ from traditional markets due to their platform economy effects. In
 its previous decisions regarding e-marketplaces, the Competition Board established that
 the e-commerce sector has different competitive dynamics and thus contains a different
 and more complex structure than the traditional markets.
- Factors such as e-marketplaces' market power arising from user data ownership and network effects as well as their two-sided roles both as a platform owner and seller, raise concerns that these platforms may abuse their market power.
- It is recognized worldwide that e-marketplaces may engage in exclusionary and/or exploitative practices through pricing, platform services and supply behavior.

¹ Please click the following link to access the announcement: https://www.rekabet.gov.tr/tr/Guncel/rekabet-kurulu-tarafindan-e-pazaryeri-pl-b792ce1d38c7ea11811c00505694b4c6

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• The sector inquiry aims to understand e-marketplaces' (possible) competitive and anticompetitive effects and establish effective policies based on them.

What is a sector inquiry?

A sector inquiry is a method used by the Turkish Competition Authority to reveal competitive dynamics in a particular sector, analyze competitive concerns and come up with policies to resolve these issues. In a sector inquiry, the Turkish Competition Authority aims to obtain data through information/documentation requests from market players, meetings with undertakings and surveys. In its announcement, the Turkish Competition Authority revealed that it will gather opinions and information from e-marketplaces, end-users and suppliers selling goods through these platforms and the associations representing them.

Unlike an investigation process, in a sector inquiry the Competition Board does not investigate a particular conduct of an undertaking, but rather examines the sector in general. Contrary to an investigation process, the Competition Board does not establish a violation or impose any administrative monetary fine on an undertaking as a result of a sector inquiry.

Scope of the Sector Inquiry on E-marketplaces

Hatice Yavuz, head of the 2nd Supervision and Enforcement Department, which will conduct the sector inquiry, stated, "*e-marketplaces are platforms that gather sellers and consumers together via online channels and facilitate online shopping*" and exemplified several e-marketplaces active in Turkey such as Amazon, Hepsiburada, Gittigidiyor, N11 and Trendyol. Yavuz further indicated that while e-marketplaces allow small businesses to reach more customers, they also increase product and price diversity for consumers. She also stressed the importance of understanding e-marketplaces' all competitive and anti-competitive effects with a view to protect such efficiencies in the long term.

Yavuz summarized the possible issues to be examined within the scope of the sector inquiry as the following: (i) the most favored nation practices, (ii) exclusion of some sellers and limitation of their visibility on the platform in cases where the platform is also a seller, (iii) the objectivity of the product listing, (iv) using consumer and seller data to provide an unfair advantage to their own products, (v) disproportionate distribution of risk on sellers, (vi) high commission rates applied to sellers, (vii) forcing sellers to accept additional services and (viii) using algorithms and data to facilitate agreements restricting competition.²

On 30 January 2020, the Turkish Competition Authority had announced that it launched a "Digitalization and Competition Policy Report", to determine competition law policies in the field

² The statements can be accessed via the following link: https://www.hurriyet.com.tr/ekonomi/e-pazarlar-mercek-altinda-41565524

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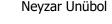
of digital economies. This sector inquiry on e-marketplaces will also cover digital economies but its focus is the conduct of e-marketplaces and its competitive effects.

Conclusion

Within the scope of this sector inquiry, the Turkish Competition Authority will consult emarketplaces' end users as well as the suppliers who sell through these platforms. The announcement states that a survey targeting consumers and sellers in e-marketplaces will be conducted. In this regard, with the participation of industry players and end-users, the Turkish Competition Authority aims to take a comprehensive snapshot of the sector with a focus on competitive dynamics and determine the next steps to be taken to ensure its effective and competitive functioning.

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