

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-terafindan-e-pazaryeri-pl-b792ce1d38c7ea11811c00505694b4c6>

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- The sector inquiry aims to understand e-marketplaces' (possible) competitive and anti-competitive 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 e-marketplaces' 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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