

Law Bulletin

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UNFAIR PRICE ASSESSMENT BOARD

Law No. 7244 on Reducing the Effects of the Novel Coronavirus (COVID-19) Pandemic on Economic and Social Life and the Amendment of Certain Laws has introduced certain amendments to the Law on the Regulation of Retail Trade No. 6585 ("**Law No. 6585**").

1. Unfair Price Assessment Board

According to the amended version of Law No. 6585, an Unfair Price Assessment Board (the "**Board**") will be established with the authority to conduct inspections and examinations on manufacturers, suppliers and retailers regarding excessive price increases, stockpiling and unfair pricing; to impose administrative fines; and to adopt all kinds of measures. The Board is authorized to impose:

- administrative fines between TRY 10,000 and TRY 100,000 to manufacturers, suppliers and retailers that apply excessive increases in the selling price of a good or service and
- administrative fines between TRY 50,000 and TRY 500,000 to manufacturers, suppliers and retailers that prevent consumers from accessing goods by creating shortage in the market, disrupting market balance and damaging free competition.

Although the purpose and scope of Law No. 6585 includes the procedures and principles regarding the opening, operations and examinations of retailers, the Board's scope of authority includes manufacturers and suppliers in addition to retailers.

Secondary legislation is expected for further details regarding the Board's working procedures and principles.

2. Scope of the Board's Inspection

The Board's establishment is a response to the price increases due to COVID-19 pandemic. In March and April 2020, the Advertising Board of the Ministry of Trade imposed administrative fines on companies that applied excessive price increases in food, cleaning, hygiene and health products. With the amendment made in Law No. 6585, the Board has been given the authority to inspect companies that apply excessive price increases and unfair prices. In her statement regarding the Board's function, Minister of Trade Ruhsar Pekcan also stated that the new Board will supervise excessive price increases, which was formerly a task of the Advertising Board and that companies that increase prices without any justification such as an increase in input costs, will be examined by the Board.

The administrative fines imposed by the Advertising Board in March and April 2020 targeted companies that trade products such as masks, disinfectants, cologne and food. Although it is expected that the scope of the Board's inspection will target similar products, the amended version of Law No. 6585 allows the Board to examine prices of all products and services in the retail sector. In addition, there is a lack of certainty about the definition of excessive price increase, stockpiling, creating shortage in the market and disrupting market balance. The secondary legislation is expected to clarify these uncertainties as well.

3. Competition Law Aspects

On 25 March 2020, the Turkish Competition Authority (the "TCA") announced that it is monitoring excessive price increases in fresh fruits and vegetables and companies that apply excessive prices will be imposed the highest possible fines. Article 4 of the Law on the Protection of Competition No. 4054 prohibits price increases arising from agreements between undertakings. Furthermore, under Article 6, excessive pricing is an infringement only if the undertaking applying the excessive price is in a dominant position. Accordingly, it is unlikely that the TCA will intervene in the event of an excessive price increase which results from the independent decisions of companies that are not in a dominant position. Therefore, the newly created Board's scope of authority differs from that of the TCA. The new Board will be able to impose fines on non-dominant companies that excessively increase prices without being involved in an agreement between competitors.

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