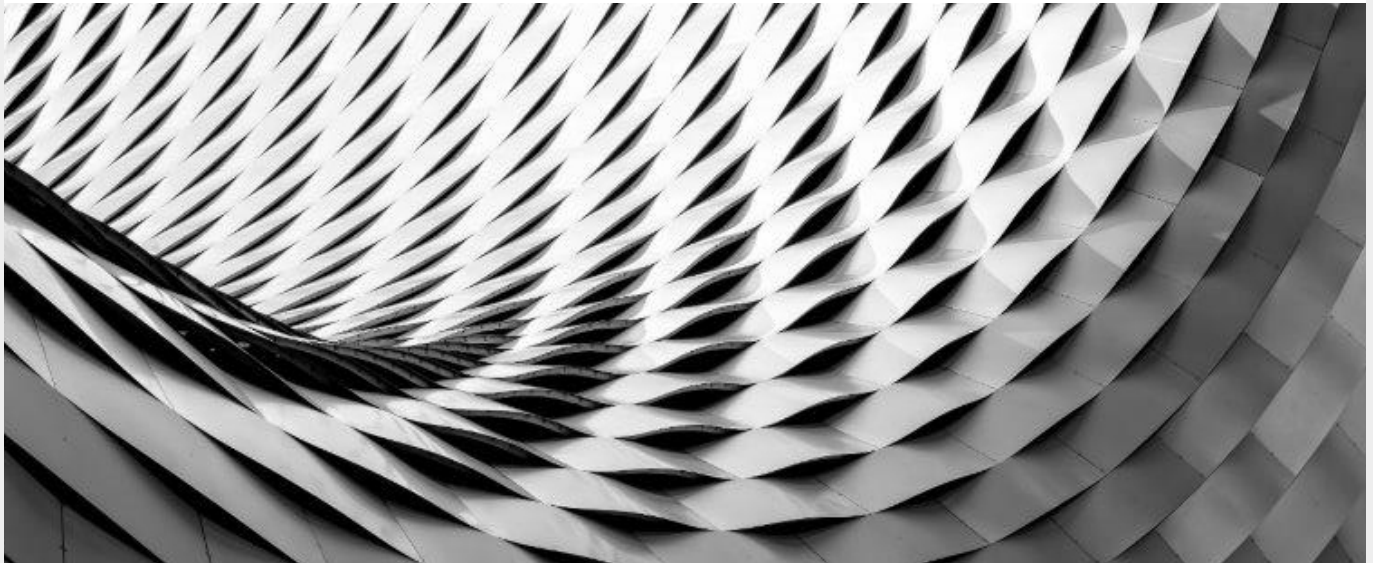


Impact of COVID-19 on Turkish Competition Law enforcement and merger review

April 2020



Dear Colleagues, Clients and Friends,

Amid efforts to mitigate the spread of the novel coronavirus epidemic (COVID-19), a number of competition authorities worldwide have introduced new working arrangements or intensified their enforcement activities.

In Turkey, the Presidential Office issued a new directive No. 2020/4 on 22 March 2020 (Directive), introducing new working conditions for civil servants, including the personnel of the Turkish Competition Authority (Authority), over the course of the COVID-19 epidemic. The Directive provides that the personnel of public entities and institutions may benefit from flexible working methods such as remote or alternate working, or may be deemed to be on administrative leave. The Directive also provides that the continuity of public services must be ensured at all times. As such, workers who practice remote working or alternate working shall have the same rights and responsibilities as to the performance of the public service. Accordingly, the Turkish Authority continues to accept merger filings and complies with statutory timelines regarding the review process at this time. However, all filings to be made to the Authority are required to be submitted in electronic format through a specifically designed online system.

On the other hand, the upcoming period may be marked by intensive enforcement action as competition authorities join in with the broader administration effort in response to the COVID-19 threat. A number of leading global enforcement authorities, such as the U.S. Department of Justice (DoJ), the U.K. Competition and Markets Authority (CMA) and the European Competition Network (ECN), have issued statements warning against competition law violations regarding key products.

The Turkish Authority recently announced on its official website that it will be monitoring steep price raises in retail sales of foods such as fresh fruit and vegetables, and would take direct enforcement action against

all kinds of actors in the food market if necessary, including producers, middlemen, transporters and retailers. Moreover, other public authorities such as the Turkish Financial Crimes Investigation Board and the Advertisement Board have been looking into steep price increases of health products and misleading advertisements. It remains to be seen whether the Authority will take a stance against such practices in the health and safety sector.

In addition, the DoJ released a firm statement on its intention to hold accountable anyone who violates the antitrust laws in connection with the manufacturing, distribution, or sale of public health products such as facemasks, respirators, and diagnostics, through practices such as bid rigging, customer/market allocation, and price fixing. It is worth noting that the DoJ proposes expedited procedures for companies that wish to obtain prior clearance with respect to potentially collusive activities aiming to combat the COVID-19 epidemic.

In the EU, a joint statement by the ECN highlights the importance of antitrust rules in providing a level playing field between companies and competitive prices regarding essential products during crisis conditions. On the other hand, the ECN ensures that it will not actively intervene against necessary cooperation between undertakings aimed at securing supply and fair distribution of key products.

Indeed, competition law regimes in many jurisdictions such as the EU and Turkey generally have readily available schemes which provide for efficiency-generating cooperation agreements regarding joint research and development to be exempt from competition law rules. As such, companies that may benefit from greater cooperation to better deal with overriding public health requirements, could consider getting in touch with their respective enforcement authorities in order to avoid prosecution in the long run.

Please do not hesitate to contact us for any further information on this briefing.



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