

COMPETITION LAW NEWSLETTER

This newsletter updates readers on the recent developments occurred in May 2024 in the Turkish competition market. It includes (i) amendments to the Act No 4054 on the Protection of Competition (“Act”) published in the Official Gazette dated May 29, 2024, (ii) the administrative fines imposed on French High-Schools because of a violation of Article 4 of the Act, (iii) interim measure final decision concerning data combining between Instagram and Threads to Meta, (iv) daily fines imposed on Google for failing to comply with its obligations and (v) the authorization to acquisition of Trendyol Azerbaijan shares by Pasha Holdings LLC.

1. Amendments to the Act

Articles 34, 43 and 45 of the Act was amended with Law No. 7511. Amendment to Article 34 is related to the stuff of the Turkish Competition Authority (“**Authority**”).

Before the amendment to Article 43, the parties to the investigation were obliged to submit a first written plea following the notification of Authority’s investigation notice. With this amendment, first written plea is abolished. Hence, the parties won’t be under the obligation to submit the first written plea to the Authority.

Before the amendment to Article 45, the Authority was obliged to draw up an additional opinion after the submission of the second written plea. After the amendment, it is not obliged to prepare such an opinion if there is no change in the opinion stated in the investigation report. Furthermore, the legal period for (i) preparation of additional opinion is reduced to 15 days from 30 days, and (ii) submission of third written plea is reduced to 30 days from 60 days.

Indeed, these amendments will speed up the investigation process and the merger clearance final examination process (Phase II) which is subject to the investigation procedure.

2. The Administrative Fines Imposed on French High-Schools

The Turkish Competition Board (“**Board**”) had decided to initiate an investigation on November 10, 2022 against Saint-Joseph Private French High School, Saint Benoît Private French High School, Notre-Dame de Sion Private French High School, Saint-Michel Private French High School and Sainte Pulchérie Private French High School with allegation of violation of Article 4 of the Act by fixing school registration fees and the salaries of Turkish teachers.

The Board concluded that the parties to the investigation violated Article 4 of the Act since they fixed (i) school registration fees and the elements that constitute of fee, (ii) the salaries of Turkish teachers. One of the anti-competitive practices in labor market, salary/wage-fixing agreements, aim to regulate salaries, wages, or other benefits given to employees among employers. Sharing sensitive information regarding these matters for this purpose may have similar effects with these agreements. Indeed, this fine indicates the Authority’s recent focus on labor markets.

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LAW FIRM

3. Interim Measure Final Decision Concerning Meta

After it initiated an investigation with suspicion of Meta's alleged abuse of its dominant position by means of combining Threads and Instagram data, the Board implemented an interim measure against Meta with its decision on February 2, 2024. In this decision, it concluded that Meta's combination of data of users' who created Threads profile based on their Instagram amounts would lead to irretrievable damages until the end of the investigation and that daily administrative fine of TRY 4,796,152.96 would be imposed to Meta until compliance measures fulfilling the requirements of interim measure decisions were taken.

After its first proposal regarding "practices in the form of using without a profile" was rejected by the Board on March 14, Meta announced on April 15 that Threads service would be officially ceased in Türkiye and users in Türkiye would not be able to use Threads as of April 29. Subsequently, the Board cease imposing daily fine with its decision dated May 3, 2024. As a result, it imposed a total of TRY 335,730,707.20 administrative fines for 70 days.

4. Daily Fines Imposed on Google

With its decision dated April 8, 2021, the Board ruled that Google held position in the general search services market and that the latter abused its dominant position by obstructing the activities of its competitors and favoring its own local search (Local Unit). Hence, the Board imposed an administrative fine of TRY 296,084,899.49 on Google for violating Article 6 of the Act. The Board also obliged Google to eliminate this infringement and re-establish effective competition in the market.

In this regard, Google presented a set of measures to eliminate the concerns indicated by the Board in the "local search services" market, including new designs for local search services. Subsequently, the Board decided to implement proposed measures presented by Google and monitor them for a period of 3 months on March 21, 2024. Nevertheless, the Board found that Google failed to comply with this obligation with its decision dated May 9, 2024. As a result, a daily administrative fine was imposed on Google at 0,05% of its annual gross revenues in 2023 until the obligations are fulfilled on May 9, 2024.

5. The authorization to acquisition of Trendyol Azerbaijan Shares by Pasha Holdings LLC

The acquisition of Trendyol Azerbaijan LLC shares belonging to DSM Global Elektronik Ticaret Hizmetleri ve Yatırımları A.Ş (Trendyol) controlled by Alibaba by Pasha Holding LLC was notified to the Board on May 15, 2024. The Board cleared this acquisition on May 21, 2024. Hence, Trendyol Azerbaijan will be under joint control of Trendyol and Pasha Holding LLC.

Should you have any inquiries, please do not hesitate to contact us.

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