

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Digital Disruption in Financial Markets – Note by Turkey****5 June 2019**

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More documents related to this discussion can be found at

<http://www.oecd.org/daf/competition/digital-disruption-in-financial-markets.htm>

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Turkey

1. General Overview of FinTech Ecosystem in Turkey

1. In Turkey, the financial sector (banking in particular) has been an area where strict regulation aimed at protecting financial stability. However, despite tight regulation, the variety of products related to online service provision in the banking sector has increased in recent years.

2. The most important reason, which made this possible, is the quick adoption of technological products and online services by customers, especially by the young population. As a result of having a young population and being a developing country, demand for digital business models are rapidly increasing in Turkey. Accordingly, the volume of e-commerce is growing. Between 2013-2017, e-commerce sector in Turkey grew by 32% annually on average.¹ In a similar manner, high usage rate of smart devices in Turkey (65% while world average is 60%)² is promoting the purchase of services through mobile applications. As purchases via internet and mobile applications increase, the payments made digitally grows accordingly. Innovative payment solutions also gains momentum in many markets. Innovative technologies are becoming widespread in other financial products and services as well.

3. In Turkey, as a reflection of the technology-driven transformation in the financial sector, FinTech companies have begun to operate and compete with established players in the market. Some FinTech companies have established collaborations with traditional players in the market, enabling conventional financial services to have digital workflows. In the face of these developments, various actions are taken in order to ensure effective functioning of financial markets and development of its FinTech branch. For example, public authorities responsible for regulating and auditing financial markets came together and formed the “Financial Technologies Task Force”. The Task Force conducts policy studies to create a healthy ecosystem FinTech in Turkey by bringing numerous stakeholders in the sector together.

2. Regulation of FinTech in Turkey

4. Increasing impact of FinTech on the financial sector in Turkey has brought about the adoption of regulative rules governing this area. The main legislations that include provisions on FinTech are the Payment Services Law No. 6493 and the Capital Market Law No. 6362.

1 TÜBİSAD (2018), “E-Commerce in Turkey”, http://www.tubisad.org.tr/en/images/pdf/tubisad_2018_e-commerce_in_turkey_en.pdf, p.12, Date of Access: 20.05.2018.

2 TÜSİAD (2017), “The New Growth Engine in the Digital World: E-Commerce (Executive Summary)”, https://www.eticaretraporu.org/wp-content/uploads/2017/04/TUSIAD_e-Commerce_Report_Exec_Summary.pdf p.3, Date of Access: 20.05.2019.

5. The Payment Services Law enacted the rules which must be complied with by the payment services providers and e-money issuers. The Payment Services Law, which is modeled on EU Directive on payment services (Directive 2007/64/EC), is aimed to promote the competition, reduce the costs, boost the quality of services and increase financial access in the field of payment services. The most important change brought by the Payment Services Law is that non-bank organizations are allowed to operate as an intermediary for payment transactions. In this context, in addition to banks, e-money institutions and payment institutions are also regarded as payment service providers in the law. Upon its entry into force, the legal basis for non-bank organizations operating in this market was established and FinTech companies have begun to offer value-added payment services.

6. Another law that includes important provisions regarding FinTech is the Capital Market Law. What makes this law important for FinTech is the provisions which involves the principles and procedures regarding the crowdfunding. In the Capital Market Law, the crowdfunding is defined and the crowdfunding platforms operating digitally are exempted from the obligations (e.g. preparation of a prospectus or issuance certificate) to be fulfilled in order to be able to offer capital market instruments to the public. Thanks to the asymmetric regulation approach adopted in the law, crowdfunding activities carried out in the electronic environment and traditional operations regarding public offering are dealt separately and special rules have been established against the specific risks of both activities.

3. The TCA's Approach to FinTech

7. In recent years, established players in the market have reacted to new FinTech companies as influence of financial technologies increased on the financial system. In this context, some of the actions taken by established players has been brought to the agenda of the Turkish Competition Authority (TCA). The *BKM Decision*³, which is an exemption case about the card data storage service provided by the BKM (Interbank Card Center), sets out the approach of the TCA towards this area.

8. The card data storage service consists of storage of the card information that is used for reoccurring payments by the third party service providers and keeping them accessible to be used for payments under certain security standards. This service ensures that credit or debit card information of the consumers are stored by a third party with secure systems preventing frauds.

9. The reason that the services offered by the BKM is on the agenda of the TCA is that BKM is an association of undertakings formed by the banks which compete with each other. As a matter of fact, it was stated in the past decisions⁴ of the TCA that activities of the BKM could adversely affect the competitive environment of the banking sector and these activities are subject to exemption examination under Article 5 of the Act on the Protection of Competition No. 4054.

10. In its most recent *BKM Decision*, TCA emphasized the integration between banks and BKM, which allows consumers to register their cards without sharing all of their card information. It was pointed out in the decision that banks refused to establish such

³ Decision Date: 12.06.2018, Decision Number: 18-19/337-167.

⁴ e.g. Decision Date: 26.02.2015, Decision Number: 15-09/129-58.

integration with other players that provide card storage services and this had a negative effect on competition in the market. In this respect, it was stated in the decision that the efficiencies claimed by the BKM arise from the exclusionary actions of the banks, BKM aggravates the activities of non-bank institutions and due to the card data storage service offered by BKM, competition between the BKM and other card storage organizations as well as other card storage organizations and banks has been adversely affected.

11. As a result, it was concluded that the banks did not provide the infrastructure services offered to BKM to the other players in the market and this had an exclusionary effect against the new players. Therefore, it was decided that the card storage service of BKM did not meet the conditions of exemption in the Article 5 of the law no. 4054 and no exemption could be given to this service.

12. In this decision which deals with the unique dynamics of the market, TCA referred to the restrictive effect of exclusionary actions adopted by the established players against the new players in the market and highlighted the importance of the access of FinTech companies to the existing banking infrastructure. In the same decision, it was also stated that a similar integration between the banks and BKM exists in the another BKM service, named “BKM Express Digital Wallet”, which was given an indefinite exemption from Article 4 of the law no. 4054 in 2016⁵. Therefore, the Turkish Competition Board required BKM to re-apply for an individual exemption for this service.

4. Conclusion

13. FinTech are causing significant changes in the financial sector in Turkey as well as other countries. The question of how FinTech will be dealt with in terms of competition law is still waiting for an answer and the competition authorities have not yet been adopted a common approach to this emerging matter. The TCA focuses its enforcement efforts on preventing artificial entry barriers against new competitors. In order to determine the optimum competition policies in the field of FinTech, it is important that competition authorities share their experiences.

⁵ Decision Date: 23.09.2016, Decision Number: 16-31/525-236.