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Competition and Consumer Policy in Digital Markets – Note by Kazakhstan

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Q1. Based on your enforcement experience, what types of conduct in the digital economy raise concerns from both a competition policy and consumer protection perspective (e.g., online choice architecture, self-preferencing, tying/bundling, misleading disclosures, unfair trading terms, fake reviews, algorithmic pricing/targeting, influencer marketing)? Please provide concrete examples where relevant.

1. **Response 1, ARCCD.** Based on experience of the Analytical Research Center for Competition Development (ARCCD) under the Agency for Protection and Development of Competition of the Republic of Kazakhstan, we have encountered several practices by digital platforms that may restrict the rights and interests of consumers, including both business users and consumers using platforms free of charge.

2. One of the most significant cases involved **price parity clauses** (*MFN clauses*) used by the marketplace platform **"Kaspi Shop"**. Merchants were contractually restricted from offering lower prices on competing marketplaces or through their own sales channels. In practice, such clauses may soften price competition between platforms, increase switching costs for sellers, and limit the ability of alternative marketplaces to compete through lower commissions or better commercial conditions.

3. The situation was further aggravated by the fact that goods on Kaspi Shop were also sold through bank-financed installment products (*BNPL*). The economic cost of the installment financing was not transparently disclosed by the platform, and it remained unclear what exact share of the total marketplace commission (*estimated at 15-22%*) represented the cost of the bank loan itself. At the same time, cashback payments offered to consumers for one-time direct payments without using installment financing – typically around 5% – may not have reflected or compensated for the true economic cost embedded in BNPL transactions. This potentially resulted in discriminatory conditions for consumers purchasing goods without using installment financing.

4. Hypothetically, such consumers could have contacted sellers directly and requested discounts for immediate full payment purchases. However, the price parity obligations imposed by the marketplace prevented merchants from offering lower prices outside the platform ecosystem.

5. Following several rounds of negotiations with Kaspi Shop, the platform removed the price parity requirements. Subsequently, in autumn 2025, the Ministry of Trade and Integration of the Republic of Kazakhstan amended the Internal Trade Rules by introducing new requirements for sellers to display dual pricing for goods: one price for installment purchases and another for one-time direct payment purchases. However, the wording of the legal provision referred specifically to installment financing provided using the seller's own funds and did not extend to bank-financed installment products. As a result, the regulation covered only a very limited portion of BNPL lending and did not fully achieve its intended objective of eliminating consumer discrimination.

6. Another important example concerns the online real estate platform **"Krisha.kz"**. Based on our analytical assessment, several platform practices may raise both competition and consumer protection concerns.

7. First, the platform rules reportedly contained restrictions on mentioning competing services, including prohibitions on posting of links, logos, or contact information directing

users to alternative sales channels. Such practices may limit consumer awareness, reduce traffic redirection to competing platforms, and restrict the freedom of communication between market participants. Internationally, similar conduct has been discussed in the context of so-called "anti-steering" restrictions in digital ecosystems.

8. Second, certain contractual provisions associated with the "Krisha Agents" model potentially created exclusivity effects. These provisions reportedly restricted the simultaneous use of competing platforms, prohibited the use of third-party buyer acquisition tools, and limited the ability to repost listings obtained through Krisha.kz on alternative services. From a competition perspective, such arrangements may increase switching costs, reduce multi-homing, and create barriers for the entry or expansion of rival platforms.

9. Third, the platform reportedly applied sanctions or penalties for conducting transactions outside the platform ecosystem. In economic terms, these mechanisms may discourage off-platform transactions and reinforce dependence on the platform, effectively protecting platform rents and limiting inter-platform competition.

10. We also identified potential risks associated with personalized or differentiated pricing mechanisms for listing promotion services. The existence of individualized pricing models may create concerns where users are segmented not according to objective service characteristics, but according to their level of dependence on the platform or bargaining position. The absence of transparent pricing methodologies and clear links between prices and objective cost or service parameters may create risks of discriminatory treatment for business users.

11. More broadly, the Krisha.kz case illustrates how digital platforms may simultaneously influence market access, visibility, consumer choice architecture, and pricing conditions through a combination of contractual restrictions, ranking systems, interface design, and algorithmic tools.

12. We also encountered concerns related to geographic and personalized pricing practices on the local geolocation and business discovery platform **"2GIS"**. In particular, businesses operating in different cities and regions of Kazakhstan could face materially different pricing conditions for comparable advertising and promotion services on the platform, despite receiving substantially similar functionality.

13. The platform also applied extensive segmentation and differentiated pricing mechanisms for paid prioritization and visibility tools. From a competition policy perspective, such practices may create risks where business users are charged not on the basis of objective service characteristics or costs, but according to their degree of dependence on the platform, geographic location, or commercial vulnerability.

14. These concerns become more significant in cases where the methodology behind the pricing system lacks sufficient transparency, including the absence of publicly available criteria explaining why similarly situated businesses receive different commercial terms. In digital markets characterized by strong network effects and high dependence on visibility algorithms, such practices may create discriminatory conditions for business users and distort competitive neutrality between firms operating in different regions.

Q2. When conduct raises overlapping concerns, what determines whether a case is pursued under competition law, consumer protection law, or both (e.g., policy objectives, legal thresholds, evidentiary requirements, speed of enforcement, available remedies, institutional powers)? Would this differ where the conduct affects digital markets?

15. **Response 2, ARCCD.** In the Republic of Kazakhstan, the Agency for Protection and Development of Competition does not pursue the objective of protecting all categories of consumer rights in a general sense. The Agency intervenes primarily in cases where harm to consumers arises as a consequence of anticompetitive conduct, particularly abuse of dominance under Article 174 of the Entrepreneurial Code of the Republic of Kazakhstan.

16. Therefore, the key factor determining whether a case falls within competition law enforcement is not merely the existence of consumer harm, but the presence of market power and exclusionary or exploitative conduct capable of restricting competition. In practice, this requires an assessment of market definition, dominance, barriers to entry, dependence of market participants on the platform or ecosystem, and the actual or potential effects on competition.

17. Where conduct primarily concerns misleading advertising, unfair disclosures, fraudulent practices, or general consumer deception without a demonstrable competition-related element, such matters are generally addressed under consumer protection legislation and by the competent consumer protection authorities rather than the competition authority.

18. However, in digital markets these issues increasingly overlap. Many digital platforms simultaneously act as intermediaries, gatekeepers, advertising ecosystems, payment providers, and ranking operators. As a result, practices that may initially appear to be consumer protection issues – such as opaque ranking systems, self-preferencing, discriminatory access conditions, dark patterns, or personalized pricing – may also strengthen market power, increase switching costs, reduce multi-homing, or foreclose competitors.

19. For this reason, in digital markets the distinction between consumer protection and competition concerns becomes less rigid. The same conduct may simultaneously affect consumer autonomy and the competitive structure of the market. Nevertheless, from an institutional perspective, the competition authority in Kazakhstan still focuses primarily on whether the conduct constitutes an abuse of dominant position or otherwise restricts competition under antimonopoly legislation.

20. At the same time, we increasingly try to address such risks through ex-ante approaches, particularly by imposing behavioral remedies and conditions during merger control procedures involving digital ecosystems and platforms. The objective is to prevent the emergence or strengthening of exclusionary practices before irreversible network effects, lock-in mechanisms, or ecosystem dependencies are formed.

21. One recent example involved the proposed transaction between **Freedom Holding Corp.** and **Bilim Media Group**. During the review process, particular attention was paid not only to traditional competition concerns, but also to risks associated with ecosystem expansion, technological dependence, data concentration, interoperability restrictions, and potential leveraging of dominance across adjacent digital markets. In this context, behavioral conditions were considered as a mechanism to preserve openness of the ecosystem, reduce lock-in risks, and protect both competition and consumer interests in the longer term.

Q3. Have you encountered situations where competition and consumer protection objectives in digital markets came into tension? For example, where intense competition resulted in negative consequences for consumer protection or product safety, or conversely, where strict consumer protection or product safety standards negatively affected competition? How did you navigate these trade-offs?

22. **Response 3, ARCCD.** Yes, such tensions increasingly arise in digital markets.

23. For example, concerns the trade-offs between consumer protection objectives and preservation of competitive dynamics in digital platform markets. In Kazakhstan, one notable case involved the external antimonopoly compliance act concluded with **"Yandex Taxi"** regarding the ride hailing market.

24. As part of this framework, the platform undertook several commitments aimed at increasing transparency and protecting consumers, including enhanced disclosure of surge pricing mechanisms, algorithmic audit obligations, and restrictions on excessive surge coefficients. In particular, the compliance framework introduced monitoring mechanisms intended to ensure that the **surge multiplier would generally not exceed x3**, except in limited extraordinary situations.

25. From a consumer protection perspective, such measures were intended to reduce the risks of excessive pricing during periods of peak demand and improve public trust in algorithmic pricing systems. However, from a competition perspective, such interventions may also create complex trade-offs.

26. In highly dynamic digital markets, surge pricing performs not only a pricing function, but also an allocation and competitive function by attracting additional drivers to the platform during periods of demand spikes. Excessively rigid restrictions on surge pricing may therefore reduce the ability of platforms to compete aggressively for driver supply, particularly against rivals operating under different business models or with more flexible pricing mechanisms.

27. For example, platforms such as inDrive operate with a substantially different pricing architecture compared to algorithmic surge-based systems. In this context, strict limitations on surge coefficients for one platform may potentially weaken its competitive flexibility relative to competitors, even where the original policy objective is consumer protection.

28. This illustrates a broader challenge in digital markets: measures aimed at protecting consumers in the short term may sometimes unintentionally affect platform incentives, market dynamics, and the intensity of competition. As a result, we increasingly try to design interventions in a proportional and flexible manner, balancing consumer welfare objectives with the need to preserve innovation, platform contestability, and competitive pressure in rapidly evolving digital ecosystems.

Q4. Have you applied remedies in digital-related cases that were aimed simultaneously at improving competitive conditions and protecting and empowering consumers (e.g., data portability, transparency obligations, choice screens, restrictions on digital design practices, limitations on switching frictions)? How effective have they been in practice?

29. **Response 4, ARCCD.** Yes. In recent years, ARCCD and the Agency for Protection and Development of Competition of the Republic of Kazakhstan has increasingly used behavioral remedies and compliance-oriented mechanisms in digital markets with the dual objective of preserving competition and strengthening consumer welfare.

30. One of the most notable examples involved the proposed transaction between **Freedom Holding Corp.** and **Bilim Media Group**. During the merger review process, particular attention was paid not only to traditional concentration indicators, but also to long-term ecosystem effects, including technological dependence of educational institutions, interoperability restrictions, data concentration risks, and switching barriers for users and counterparties.

31. In this context, behavioral remedies and proposed conditions focused on preserving openness and contestability within the digital ecosystem. These discussions included issues

related to interoperability, prevention of discriminatory access conditions, restrictions on ecosystem leveraging practices, and the need to avoid technological lock-in effects that could limit future consumer choice and competition in adjacent markets.

32. We have also used transparency-oriented remedies in digital platform markets. For example, within the framework of the external antimonopoly compliance act involving **"Yandex Taxi"**, the platform undertook obligations related to increased transparency of algorithmic pricing mechanisms, disclosure of surge pricing conditions to consumers, provision of information to the competition authority regarding key operational indicators, and participation in algorithmic audits.

33. In practice, we view behavioral remedies in digital markets as more flexible and adaptive instruments compared to purely structural interventions, particularly in rapidly evolving sectors where innovation cycles are very fast. At the same time, their effectiveness depends heavily on monitoring capacity, transparency of algorithms, availability of data for oversight, and the ability of regulators to detect indirect or evolving forms of exclusionary conduct.

34. One of the main challenges is that digital markets are highly dynamic, and platforms may adapt their interfaces, ranking systems, or commercial policies faster than traditional regulatory processes can respond. Therefore, remedies related to transparency, interoperability, reduction of switching frictions, and prevention of ecosystem lock-in increasingly require ongoing monitoring rather than one-time intervention.

Q5. Have you applied remedies in digital-related cases that were aimed simultaneously at improving competitive conditions and protecting and empowering consumers (e.g., data portability, transparency obligations, choice screens, restrictions on digital design practices, limitations on switching frictions)? How effective have they been in practice?

35. **Response 5, ARCCD.** Yes. At present, we are conducting a research project focused on the behavioral perception of dual pricing mechanisms introduced through amendments to the Internal Trade Rules of the Republic of Kazakhstan. The project is intended to better understand how consumers perceive installment-based pricing, BNPL products, and the transparency of the full economic cost of credit in digital and retail environments.

36. The research incorporates elements of behavioral economics, consumer surveys, quasi-experimental methods, and pilot interventions. In particular, the study examines how consumers react to the display of separate prices for installment purchases and one-time direct payments, including whether clearer disclosure changes consumer financial decision-making and perception of the true cost of borrowing.

37. The project also analyzes behavioral distortions associated with BNPL products and installment financing, including underestimation of credit costs, impulsive consumption, and distortions in the perception of affordability created by digital interfaces and pricing architecture.

38. As part of the methodology, the research includes comparative analysis between pilot and control groups, behavioral monitoring over time, and evaluation of how interface design and pricing disclosure mechanisms may influence consumer choices. The broader objective is to assess whether behavioral interventions and improved transparency tools can simultaneously strengthen consumer protection and reduce market distortions associated with opaque pricing mechanisms in digital commerce.

39. One of the preliminary observations is that consumers often perceive installment products differently from traditional credit products, even where the economic substance

is similar. This creates important implications both for consumer protection policy and for competition policy, particularly in digital ecosystems where marketplaces, financial services, and recommendation algorithms are integrated into a single platform environment.

Q6. When investigating potential consumer protection violations, do you assess whether such conduct may also distort competition (for example, by foreclosing markets, raising rivals' costs, facilitating self-preferencing, limiting multi-homing, or restricting consumer switching)?

40. **Response 6, ARCCD.** Yes. In practice, we increasingly assess not only direct consumer harm, but also whether the relevant conduct may distort competition and strengthen market power in digital ecosystems.

41. For example, in the course of analyzing the practices of **Kaspi.kz** and **Kaspi Shop**, we assessed not only the potential consumer harm associated with BNPL-related pricing architecture and **price parity clauses**, but also the potential **distortion of competition** between marketplaces.

42. In particular, the analysis focused on whether price parity obligations could restrict cross-platform competition by preventing merchants from offering lower prices on competing marketplaces or through direct sales channels. We also evaluated whether such practices could increase barriers to entry for rival platforms, reduce the ability of competitors to differentiate themselves through lower commissions, and reinforce network effects in favor of the incumbent ecosystem.

43. At the same time, from a consumer perspective, concerns arose regarding the opacity of BNPL-related costs embedded in marketplace commissions and the possibility that consumers paying through one-time direct payment methods effectively subsidized installment users through higher product prices.

44. Therefore, in digital markets we often view consumer protection concerns and competition concerns as interconnected rather than isolated issues. Practices affecting transparency, pricing architecture, switching behavior, or user choice may simultaneously influence both consumer welfare and the competitive structure of the market.

Q7. How does your authority assess non-price parameters (e.g. product safety, data practices, design transparency) within competition analysis in digital markets?

45. **Response 7, ARCCD.** In digital markets, non-price parameters increasingly play a critical role in competition analysis, particularly because many digital services are offered to consumers at a zero monetary price. In such environments, competition often takes place not through direct price competition, but through quality, user experience, data practices, ecosystem integration, algorithmic visibility, and behavioral design.

46. At present, the ARCCD actively uses the SSNDQ test (*Small but Significant and Non-transitory Decrease in Quality*) in its competition analysis. This approach allows us to evaluate competitive effects through deterioration of non-price parameters such as service quality, transparency, privacy conditions, interoperability, or user experience, rather than through price increases alone.

47. This is particularly important in platform markets where consumer harm may manifest through reduced transparency of ranking systems, increased switching costs, discriminatory access conditions, ecosystem lock-in, excessive data collection, or manipulative interface design rather than through explicit price increases.

48. At the same time, the current Methodology for Conducting Market Analysis contains only traditional SSNIP test (*Small but Significant and Non-transitory Increase in*

Price). This creates methodological limitations for the assessment of digital markets where price is often not the primary competitive parameter.

Q8. Have you considered whether competitive dynamics in digital markets affect firms' incentives to invest in product safety? For example, in merger assessments or market studies, have you examined whether reduced competition diminishes firms' incentives to invest in the safety of products sold online or products connected to digital technologies?

49. **Response 8, ARCCD.** Yes. Although product safety issues in Kazakhstan are primarily regulated by sectoral and consumer protection authorities, in digital markets we increasingly recognize that competitive dynamics may directly influence firms' incentives to invest in safety, quality, transparency, and reliability of digital products and services.

50. In highly concentrated digital ecosystems, reduced competitive pressure may weaken incentives for platforms to improve not only pricing conditions, but also non-price parameters such as cybersecurity, transparency of algorithms, moderation quality, protection against fraud, reliability of digital infrastructure, and safety standards for users.

51. At the same time, excessive market fragmentation or overly aggressive price competition may also create risks, particularly where platforms compete primarily through cost minimization. In such circumstances, firms may underinvest in moderation systems, cybersecurity infrastructure, verification procedures, or protection against fraudulent and manipulative practices.

52. In our analytical work, especially in relation to digital ecosystems and platform markets, we increasingly consider whether concentration of market power may create long-term dependence on a single technological provider and reduce incentives to maintain high-quality and secure digital infrastructure.

53. For example, during the review of the proposed transaction involving Freedom Holding Corp. and Bilim Media Group, part of the discussion concerned broader ecosystem risks, including technological dependence of educational institutions, concentration of educational data, interoperability restrictions, and the resilience and openness of digital infrastructure used in the education sector.

54. In digital markets we increasingly view safety, transparency, interoperability, and reliability as important non-price dimensions of competition. As competition analysis evolves beyond purely price-based approaches, these qualitative parameters are becoming more relevant in the assessment of long-term consumer welfare and market contestability.