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Assessing the Impact of Competition Authorities' Activities – Note by Türkiye

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1. Current Practice and the Use of OECD Guidance

1.1. Introduction

1. The Turkish Competition Authority (TCA) periodically conducts studies to reveal the economic impact of its enforcement activities, as is done by many leading competition authorities around the world. The first impact analysis of the TCA was completed and presented in 2017. In this study, the TCA aimed to estimate consumer benefits resulting from its interventions in cartel cases, abuse of dominance, and mergers and acquisitions that were either prohibited or conditionally cleared with remedies, over a three-year period (2014-2016).

2. Subsequent impact analyses covering the two-year periods of 2017-2018, 2019-2020, 2021-2022, and finally 2023-2024¹ were conducted biennially to estimate the measurable economic impacts of the Competition Board's decisions on consumer benefits. Despite not being a statutory requirement, these analyses have been publicly shared on the TCA's official website.

3. Although the TCA derives no direct benefit from quantifying consumer benefits, conducting impact analyses biennially is considered valuable for achieving its operational objectives and promoting competition advocacy. Furthermore, impact analyses quantify the impacts of the Competition Board's decisions in monetary terms, thus enabling performance monitoring under transparency and accountability principles. Therefore, these studies serve as key competition advocacy tools, demonstrating the importance of the TCA for the Turkish economy, to public and private stakeholders and consumers.

1.2. Methodologies

4. When quantifying the impact of its activities, the TCA adopts a methodology similar to other competition authorities. Specifically, it assumes consumer benefits from decisions equal the harm from competition violations prevented by TCA's interventions.

5. However, the TCA's assessments are limited to the direct price impacts of its interventions and it does not make any qualitative or quantitative assessment on the other potential consequences of its interventions such as deterrence, innovation or the effects on economic growth or development. Similarly, the TCA's approach excludes appeals, withdrawn mergers and commitments from its impact assessments.

6. The TCA's assessments initially covered three types of competition law infringements—cartels, abuse of dominance, and mergers and acquisitions which significantly impede effective competition—until its 2023 analysis, covering 2021–2022². Starting with 2023 report, the TCA broadened its impact assessment's scope to consider potential harm of retail price maintenance (RPM) as well, while maintaining its main

¹ Impact Analysis Report 2023-2024, March 2025. https://www.rekabet.gov.tr/Dosya/etki-analizi-raporu-2023-2024_web.pdf (in Turkish).

² Impact Analysis Report 2021-2022, January 2023. <https://www.rekabet.gov.tr/Dosya/2021-2022-etki-analizi-raporu.pdf> (in Turkish).

methodology. This was also the case for the recent Impact Analysis Report 2023-2024³, which was published in March 2025. The TCA's current approach to include RPM in its impact assessments diverges from OECD's guide and approaches of other authorities in this respect. There are two main reasons for this change in the scope: first, there has been a significant increase in the number of RPM type infringements uncovered by the TCA in recent years, particularly in fast moving consumer goods. Second, it is observed in those cases that, when strictly enforced and monitored, the effect of RPM would be quite similar to a cartel between resellers of a particular product. Thus, the TCA considered that, the same methodology with cartels might be used for the impact assessment of RPM cases.

7. The TCA uses three main pieces of information or assumptions for its own calculations: (i) the turnover affected by the decision, (ii) estimated price increase that is prevented by the TCA's decision and (iii) the time span in which the increased prices would have persisted had the TCA not prevented the infringement. The turnover that is taken into account for calculations, the rate of price increases assumed, and the duration of the elevated prices had the violation not been addressed, vary by the type of infringement. It should be noted that the TCA's methodology, followed in the impact assessment reports, has not faced any particular challenges from stakeholders.

1.2.1. Assumptions for Cartels and Retail Price Management

8. As it is the case with many leading antitrust authorities and the European Commission, the TCA assumes a minimum of 10% price increase had a cartel not been addressed. For cartel duration, it applies two scenarios—conservative and realistic—to calculate impacts accordingly. The second one is aligned with, and named as OECD methodology. According to the conservative scenario, the TCA assumes that the cartel would last at least one year, while to the OECD methodology it is assumed that the cartel would continue at least three years.

9. On the other hand, as it has been expressed above, the TCA's perspective on the RPM cases has evolved over time. For this reason, in the last two impact assessment reports, the TCA adopted the same assumptions on price increases and durations as with cartels, while estimating the impacts of its interventions to RPM infringements.

1.2.2. Assumptions for Abuse of Dominance

10. For abuse of dominance cases, the TCA reviewed the assumptions of different competition authorities, existing literature and the OECD methodology. In conclusion, the TCA calculates impacts under two different assumption sets. Under the conservative approach, the TCA assumes a price increase of 1% for at least 1 year if the Authority had not intervened, and under the OECD-aligned approach, the TCA assumes a price increase of at least 5% for 3 years.

1.2.3. Assumptions for Mergers

11. In recent years, many competition authorities have changed the way they calculate the benefits generated through corrective interventions in mergers and acquisitions. Instead of uniform price increase assumptions, they have been increasingly using real-world data and simulation methods to estimate potentially harmful effects of mergers and acquisitions on consumer welfare. However, precisely estimating the potential impacts of a merger is a demanding task, requiring high-quality data. High inflation periods also make this task even

³ https://www.rekabet.gov.tr/Dosya/etki-analizi-raporu-2023-2024_web.pdf (in Turkish).

more challenging. Therefore, the TCA continues to use the assumed price increases to calculate the benefit of interventions, mainly due to data limitations.

12. According to the conservative approach, TCA assumes that anticompetitive mergers and acquisitions would result at least 1% of price increase, which would last at least 1 year. On the other hand, according to the OECD methodology, assumes that anticompetitive mergers and acquisitions would yield at least 3% of price increase, lasting for 2 years.

2. Potentials for Updating and Expanding Guidance

13. For nearly a decade, the TCA has adhered to the OECD's existing guidance in its impact assessment studies. As outlined above, the calculations of estimated consumer benefits primarily rely on the current guide's recommended assumptions regarding price increases and durations. These assumptions are deemed reasonable and well-founded. For instance in terms of durations, in particular, our enforcement experience on competition cases mostly confirms the plausibility of these assumptions. Indeed, a study⁴ analysing 114 TCA Board decisions from 2014 to 2020 shows that, among 22 infringement decisions concerning horizontal agreements, the infringement duration was less than one year in eight cases, between one and five years in 13 cases, and more than five years in one case. Hence, this finding closely aligns with the three-year assumption for the likely duration of price increases in cartel cases.

14. On the other hand, as noted in the “Call for Contributions”, revising the underlying assumptions for regularly conducted studies inevitably introduces significant drawback of breaking time series trends, unless the results of previous studies are re-calculated with the new set of assumptions.

15. However, it is also considered that the existing OECD guide can be expanded in several ways to cover different types of infringements and to provide further guidance on some practical issues, such as adjustment of calculation methods in times of high inflation.

16. First, the TCA's experience suggests that information exchange among competitors, particularly regarding future prices, quantities, or market strategies, and strictly enforced resale price maintenance (mimicking a resellers’ cartel on a specific product) can produce cartel-like effects on consumers. For these reasons, it is asserted that consideration could be given to specifically refer these types of breaches in the guidance and to suggest appropriate assumptions. The TCA considers that, the impact assessment methodology and underlying assumptions on price increases and their duration currently used for cartels could be expanded to cover these violations as well.⁵

17. Second, the TCA considers that, during periods of high inflation -such as those when the COVID-19 pandemic significantly impacted global economies- or countries

⁴ ŞAHİN, İ. (2022). “*Rekabet hukukunda tüketici refahı yaklaşımı ve hesaplama yöntemleri*” (Consumer welfare approaches and calculation methods in competition law), Expertise Thesis. Turkish Competition Authority. <https://www.rekabet.gov.tr/Dosya/ibrahim-sahin-20230111100006131.pdf> (in Turkish)

⁵ The above-mentioned study also finds that based on data from six TCA decisions on vertical agreements subject to administrative fines during the covered period, the infringement duration ranged from one to five years in four cases and was five years in one case. This finding supports a three-year price increase duration assumption for RPM cases.

experiencing persistently elevated inflation, recommended assumptions on price increases in the existing OECD guidance may prove rather conservative. For example, if average inflation ranged between 20-25% through the years covered by an impact assessment study, and if it is expected that the inflation is not very likely to decline to single digits within the next two to three years, a 10% price increase assumption for a detected cartel may not fit to the economic realities of such a high-inflation environment.⁶ In this regard, the OECD guidance could be expanded to offer additional direction to competition authorities on adjusting price increase assumptions during periods of high inflation in affected countries.

18. Third, the TCA believes that recommendations on a common methodology on the use of discount rates as mentioned in the “Call for Contributions” would significantly enhance the OECD guidance. On the other hand, and related to the comment above, the TCA also considers that, guidance on the use of discount rates may include appropriate methodologies that take into account periods of high inflation.

19. Finally, the TCA compares the estimated consumer benefits derived from its enforcement activities with its budget expenditures for the study period –which is also the case for several agencies- and the national Gross Domestic Product (GDP).⁷ The TCA considers that these comparisons not only enhance the accountability and transparency promoting roles of its impact assessment reports but also attract significant public and media attention. In this regard, the TCA believes that this practice can be suggested in the general principles section of the guidance.

20. In conclusion, the TCA has closely followed the existing OECD guidance in its impact assessment studies to date and has made extensive reference to the principles and assumptions set out therein. In this respect, the guide is considered to be highly useful at its present extent, including reasonable assumptions recommended regarding price increases and durations by infringement types, and suggested practices to be followed when conducting impact assessments studies. However, it is considered that its guiding role for competition authorities aiming to demonstrate the impacts of their enforcement activities on consumer welfare can be further enhanced by expanding the guidance in several aspects, such as covering other types of competition infringements (e.g. RPM), recommending methodologies that take into account high-inflation environments, and suggestions that can enhance transparency and accountability promoting role of impact assessments.

⁶ It should be noted that, the TCA continued to rely on price increase assumptions recommended by the OECD guidance in its latest impact assessment study, when there was no case-specific information available.

⁷ In the TCA’s latest impact assessment report, estimated total benefit based on OECD recommendations is calculated as 6.72 billion dollars and average annual benefit is calculated as 3.36 billion dollars for 2023-2024 period. Estimated annual average consumer benefit is about **103.02** times the average budget expenses of the TCA in the relevant years and amounts to nearly 2.5% of GDP.