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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN TURKEY

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This report is submitted by Turkey to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 18-19 June 2014.

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EXECUTIVE SUMMARY

1. Overall examination of the Turkish Competition Authority's (TCA) activities shows that in 2013 a total of 191 cases were finalized following preliminary examinations, preliminary inquiries and investigations conducted under the provisions of Articles 4[1] and 6[2] of the Act No 4054 on the Protection of Competition (The Competition Act or Act No 4054). During the same period 58 negative clearance/exemption decisions and 213 merger/acquisition decisions were given in addition to that number.

2. While the number of total final decisions showed a significant increase in the last three years after the decrease in 2009 by reaching 624, 590 and 656 between 2010 and 2012, we see that this trend is broken in the last year as it showed a decrease around 33%. Half of decrease is accounted by the decrease in merger and acquisition notifications which was the expected result of an amendment that had been made last year in the article 7 of the Communiqué Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board No: 2010/4. As mentioned in the last year's report, amendment brought a change in the second set of thresholds which is the one that takes global turnover into account and raised the Turkish turnover threshold of 5 million TL to 30 million TL.

3. The other half of the decrease in total number of cases brought by the decrease in the number of competition violation. When the statistics concerning infringements of competition, are taken under examination, it can be observed that the number of finalized decisions has decreased from 303 in the previous year to 191. Similar to the decrease in the number of merger notifications, this decrease was also expected and basically reflects the decrease in the number of preliminary inquiries. This was something aimed to be achieved with the Communiqué on the Application Procedure for Infringements of Competition which was published last year. With this Communiqué it was made possible to disregard directly complaints that are not related to competition legislation or that do not carry required level of information. This way TCA had found the chance to channel its limited resources more effectively between its priorities.

4. Although the number of preliminary inquiries decreased same cannot be said about the number of investigations initiated. In 2013 TCA has opened 21 investigations while concluding 21. At this point, it is also seen that while the number of investigations may change from year to year, the sectors these investigations take place, do not show a similar change in time barring a few exceptions. In this context, when we take a look at the sectorial distribution of the finalized cases, we can see that the sectors of transportation, petroleum-petro chemistry/petroleum products, food products and beverages, telecommunications still found a good share among the examinations conducted. The finance sector looks to be the new addition among the mentioned sectors in which an important number of cases are examined.

5. When we conduct a similar analysis at the sectorial distribution of final decisions on merger/acquisition/privatization notifications, we find that sectors that produced most notifications in the order of their share in the distribution were: food products, transportation services, energy and pharmaceutical products. It could be deducted from past experience that the TCA maintains its tendency to avoid the option of blocking a transaction in 2013 as long as they do not pose significant competition problems.

6. Statistics regarding negative clearance/exemption files are taken into account, it can be seen that a large part of the files finalized in 2013 stemmed from applications related to pharmaceuticals and health

[1] Article 4 prohibits anti-competitive agreements, concerted practices and decisions.

[2] Article 6 prohibits abuse of dominant position.

services, dethroning the last two years' sector that was at the top of the list: the petroleum, petro chemistry-petroleum products sector.

7. As such, and based on the data supplied above, there is a need for the establishment of cooperation mechanisms between the law-maker and the public authorities responsible for the regulation of the aforementioned sectors to discuss the measures need to be taken in relation to those sectors which are constantly the subject of competition violations or complaints, despite the investigations conducted by the TCA and the measures taken as a result of these.

8. 2013 was an important year for the Authority in the area of fighting with cartels. A total of five decisions has been issued about cartels, one being on the banking sector. This case resulted in fines more than all of the previous fines in the history of the authority combined. There should be special emphasis given to the banking sector case as the case observed a significant public interest. Identifying a cartel in this closely followed sector increased both the public support for the Authority and the awareness.

9. In 2013 the Authority put a considerable time and effort in producing guidelines. In this respect Guidelines on Leniency Process, Guidelines on Horizontal Cooperation Agreements, Guidelines on Horizontal Merges, Guidelines on Non-Horizontal Mergers, Guidelines on the concept of "Control" and Guidelines on the General Principles of Exemption Process have been published. With the publication of the listed guidelines and the Block Exemption Communiqué on Specialization Agreements the Authority has become fully aligned with the EU Acquis. Lastly, "Communiqué On The Procedures And Principles To Be Pursued In Pre-Notifications And Authorization Applications To Be Filed With The Competition Authority In Order For Acquisitions Via Privatization To Become Legally Valid" has also been renewed in this term.

10. Today, in developed economies, another important function competition authorities are charged with is to provide consultancy to governments on legal and administrative regulations during the preparation and/or application stages of these documents, in order to ensure that the market structure established would minimize market failures stemming from the behaviors of undertakings. Within the scope of this function, known as competition advocacy, market structure in the micro scale is shaped in accordance with the suggestions of competition authorities, which helps prevent any potential failure occurring in the future and guarantees economic efficiency. The TCA has taken this subject as one of its main policies and priorities and has provided opinions to other authorities and institutions on various subjects in 2013, as well.

11. In addition to these efforts, sector inquiries are regarded as important tools that could be employed in the competition advocacy work. As a matter of fact, final report of the sector inquiries on distribution of pharmaceuticals are welcomed with great enthusiasm and provided the public with the needed ground for further discussions.

12. Regarding advocacy, the authority sent its fifth Competition Letter to all relevant stakeholders and improved its website to contribute to its advocacy efforts. The main theme of the letter was "Interaction between competition policy and consumer protection" and the letter provided good grounds for the authority to cooperate with the chambers of commerce and industry, as well as universities, to increase competition awareness. We believe competition letters and our other efforts are very important to foster a competition culture within our stakeholders.

13. Moreover, the TCA published its second competition report in 2013 on the topic of "Public Interventions from a Competition Policy Perspective. The report aimed to analyze the public interventions from a competition policy perspective by taking into account the reasons, the means and risks that they

bring about. The submission based on this report received honorable mention in the 2013 Competition Advocacy Contest organized by the World Bank Group.

14. In order to follow international developments related to the jurisdiction of the TCA, participation and contribution was provided for a large number of activities in foreign countries in 2013. As in the previous years, relations with the EU, OECD, ICN and UNCTAD were maintained at the same level of intensity and oral and written contributions provided in the meetings of the aforementioned organizations allowed the international assessment of the activities of the TCA

15. Of particular importance in terms of multi-lateral relationships, further efforts has been put to the task of identifying the needs of the OIC countries in coordination with the relevant counterparts in the OIC organization in 2013. In this regard four training seminars have been given by the TCA staff to the members of the competition authorities of the following countries: Indonesia, Pakistan, Albania and Bangladesh.

16. TCA also has organized a workshop in İstanbul, with the participation of representatives from the competition authorities of Organization of Islamic Cooperation (OIC) member states, in order to discuss the challenges faced by the member states in the application of competition law. The workshop provided the venue for the authorities to benefit from each other's experiences. The achieved success in the workshop brought its successor which will be hosted by the Moroccan Competition Authority next year.

17. Under bilateral relations, various activities were carried out with a large number of competition authorities, especially with those the TCA have signed a cooperation protocol, such as exchanging of information and experience, sharing technical assistance and participating in the events organized by them. Also last year, in addition to the existing eleven, additional cooperation protocols were signed with the competition authorities of Kazakhstan and Ukraine.

18. Lastly, some of the activities in the area of education, which are deemed particularly important by the TCA, should be mentioned. In 2013 as with previous years the TCA's investment in its own personnel continued with increased pace. Besides the improvement of the content and the increase in number of internal trainings, the TCA continued to support its case handlers to attend one or two year master programs at the high end universities of the world.

19. The TCA's work in 2013 on improving the legislation and increase the dynamism of institutional operation for the purpose of creation of a competitive environment in the goods and services market also created a foundation and opportunity for more sophisticated activities. It is clear that this work is also in line with the TCA's aim of becoming one of the world's leading competition authorities and public institutions.

1. Changes to competition laws and policies, proposed or adopted

1.1. Summary of new legal provisions of competition law and related legislation

1.1.1. Communiqué no 2013/2 on the Procedures and Principles to be Pursued in Pre-Notifications and Authorization Applications to be Filed with the Competition Authority in order for Acquisitions via Privatization to Become Legally Valid (Privatization Communiqué):

20. With the Communiqué put into force after its publication in the Official Gazette dated 18.04.2013 and numbered 28622, pre-notification and final notification thresholds as well as assessment criteria for privatization transactions were re-determined, and the Privatization Communiqué no 1998/4 was revoked.

1.1.2. Block Exemption Communiqué on Specialization Agreements, no 2013/3

21. Competition Board decision dated 09.04.2013 and numbered 13-20/278-RM(5), "Block Exemption Communiqué on Specialization Agreements, no 2013/3" was issued with an aim to set the conditions for granting block exemption from the application of article 4 of the Act no 4054 to those agreements on production specialization and distribution, concluded between undertakings that own generally complementary economic assets and activities. The aforementioned Communiqué was put into force after its publication in the Official Gazette dated 26.07.2013 and numbered 28719.

1.1.3. Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions

22. The Guidelines in question, were adopted with the Competition Board decision dated 26.03.2013 and numbered 13-16/235 (RM), and they are intended to explain the undertakings concerned and transaction parties concepts and make clarifications on the ancillary restraints and calculation of the turnover thresholds specified in the Communiqué Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board, no 2010/4, as well as to increase certainty and predictability in the application of the Communiqué.

1.1.4. Guidelines Explaining the Regulation on Active Cooperation for Detecting Cartels

23. The relevant Guidelines, adopted with the Competition Board decision dated 17.4.2013 and numbered 13-23/325-RM(2), aim to ensure the presence of "transparency" and "interpretation to the advantage of the applicants/active cooperators" principles in the application of the Regulation on Active Cooperation for Detecting Cartels (Leniency Regulation), which was issued with a view to facilitate the detection and investigation of cartels.

1.1.5. Guidelines on the Application of Articles 4 and 5 of the Act no 4054 on the Protection of Competition to Horizontal Cooperation Agreements

24. The relevant Guidelines aim to establish the principles that shall be taken into consideration in the assessment of agreements between undertakings, decisions of associations of undertakings and concerted practices with the nature of a horizontal cooperation within the framework of articles 4 and 5 of the Act no 4054 on the Protection of Competition, and they were adopted with the Competition Board decision dated 30.04.2013 and numbered 13-23/326RM (6).1.1.6. Guidelines on the Assessment of Horizontal Mergers and Acquisitions

25. The relevant Guidelines aim to establish the general principles that will be taken into consideration in the preliminary assessments conducted by the Competition Board concerning horizontal mergers and acquisition, and they were adopted with the Competition Board decision dated 04.06.2013 and numbered 13-33/448-RM(7).

1.1.7. Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions

26. The relevant Guidelines aim to establish the general principles that will be taken into consideration in the preliminary assessments conducted by the Competition Board concerning non-horizontal mergers and acquisition, and they were adopted with the Competition Board decision dated 04.06.2013 and numbered 13-33/449-RM(8).

1.1.8. Guidelines on Cases Considered as a Merger or an Acquisition and Concept of Control

27. "Guidelines on Cases Considered as a Merger or an Acquisition and Concept of Control" assess those cases which are considered mergers and acquisitions as well as the lasting changes that occur in the control of undertakings which are the fundamental factors in the identification of these cases, and they were adopted with the Competition Board decision dated 16.07.2013 and numbered 13-45/RM(9).

1.1.9. Guidelines on the General Principles of Exemption

28. "Guidelines on the General Principles of Exemption" aims to shed light on the general principles concerning exemption assessments in relation to those agreements, concerted practices and decisions of associations of undertakings which do not fall under the scope of block exemptions, and they were adopted with the Competition Board decision dated 28.11.2013 and numbered 13-66/923-RM(10).

1.1.10. Regulation Amending the Competition Authority Disciplinary Superiors Regulation

29. Regulation in question, together with the table showing the disciplinary superiors determined in accordance with the new administrative structure that was formed as a result of the re-organization of the service units of the Competition Authority by the Competition Board decisions dated 17.11.2011, numbered 11-58/1511 and dated 24.11.2011, numbered 11-59/1551, was put into effect after its publication in the Official Gazette dated 16.04.2013 and numbered 28620.

2. Enforcement of competition laws and policies

2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1. Summary of significant cases – Examples from the decisions on competition infringements

2.1.1.1 Decision concerning the Investigation Conducted on 12 Banks [Decision Date and Number: 08.03.2013, 13-13/198-100]

30. The Board examined the claim that 12 banks titled Akbank T.A.Ş., Denizbank A.Ş., Finans Bank A.Ş., HSBC Bank A.Ş., ING Bank A.Ş., Türk Ekonomi Bankası A.Ş., Türkiye Garanti Bankası A.Ş., Türkiye Halk Bankası A.Ş., Türkiye İş Bankası A.Ş., Türkiye Vakıflar Bankası T.A.O., Yapı ve Kredi Bankası A.Ş. ve T.C. Ziraat Bankası A.Ş., Garanti Ödeme Sistemleri A.Ş. and Garanti Konut Finansmanı Danışmanlık A.Ş., violated competition by concluding agreements and/or acting in concert in relation to all or some of their deposit, loan and credit card services.

31. **Market:** Market was not defined.

32. **Findings:** The investigation found evidence demonstrating that the relevant undertakings were acting in collusion concerning deposit, loan and credit card services. As a result of an assessment of the aforementioned evidence as a whole, it was concluded that these 12 undertakings under investigation engaged in anti-competitive practices by jointly setting interest rates and fees for various banking services. The relevant practices were carried out within the framework of a collusion concerning services related to deposits (including public deposits for public banks), loans and credit cards.

33. The collusion in question was found to have occurred between 21.08.2007 and 22.09.2011, based on the earliest and latest documents obtained. According the documents gathered, the collusion concerned jointly setting price strategies for services related to deposits, loans and credit cards. The collusion that was formed by Akbank, Garanti Bankası, Yapı Kredi Bankası, İş Bankası, Ziraat Bankası, Vakıfbank and Halk

Bankası in 2007 was later joined by Finansbank, HSBC, Denizbank, ING and TEB in relation to certain types of services, and the collusion was maintained through various communications as well as agreements on exchange of pricing information between all of the banks under investigation. It was determined that through a large number of written communications between managers and employees at various levels, including general directors and deputy general directors, the parties concluded agreements aimed at jointly increasing interest rates, fees and commissions for many products within the framework of loan, deposit and credit card services or at establishing joint strategies for rate changes, that they engaged in concerted practices by exchanging competitively sensitive information such as pricing strategies and targets, thereby ensuring the continuation of the collusion. In other words, the collusion was implemented through a series of agreements which were concluded in order to act in coordination in setting interest rates, fees and commissions. Even though the number of the parties varied, a significant portion of the 12 banks in question regularly participated in the majority of the agreements in question.

34. **Conclusion:** It was concluded that the undertakings under investigation violated article 4 of the Act no 4054 in services related to deposits, loans and credit cards, therefore it was decided that administrative fines should be imposed on the aforementioned 12 banks in accordance with the provisions of article 16, paragraph 3 of the Act no 4054 as well as articles 5.1(b), 5.2, 5.3(a) and 7.1 of the "Regulation on Fines to Apply In Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position."

2.1.1.2 Investigation Decision Concerning FRİTO LAY Gıda San. ve Tic. A.Ş. [Decision Date and Number: 29.08.2013, 13-49/711-300]

35. Board examined the claim that Frito Lay Gıda San. Tic. A.Ş. violated the Act no 4054 through market foreclosure and exclusive practices.

36. **Market:** Packaged Chips Market.

37. **Findings:** Within the framework of the application with an anonymity request, the Board examined whether Frito Lay Gıda San. Tic. A.Ş. (Frito Lay) which held dominant position in the packaged chips market violated articles 4 and 6 of the Act no 4054 on the Protection of Competition (Act) in a way that would foreclose the market to competitors, through the practices of de facto exclusivity in sales channels and increasing point inventory in the traditional channel.

38. In the decision dated 4.5.2004 and numbered 04-32/377-95 concerning Frito Lay, it was determined that the exclusive sales system implemented at final points of sales through written agreements or on a de facto basis failed to fulfill the conditions listed in the Block Exemption Communiqué on Vertical Agreements, no 2002/2 and in article 5 of the Act, that consequently the exemption granted to Frito Lay under article 6 of the Communiqué and article 13 of the Act should be revoked with the result that practices such as giving free products or various bonuses or giving discounts should be carried out without being tied to an exclusivity condition and in a way that would not lead to de facto exclusivity.

39. In that context, within the examinations conducted under the current application concerning Frito Lay whose exemption was revoked, it was determined that the relevant undertaking engaged in various practices aimed at "preventing the entry of" the competing producer Kraft into Frito Lay points of sales, at "foreclosing those points of sales" and at "reducing the playing field". It was concluded that these practices were in violation of the decision that revoked the exemption.

40. Also, it was observed that performance evaluations of Frito Lay employees took into account how successful they were in realizing the "Frito Lay/Kraft co-existence" target, that it was intended to decrease the Frito Lay/Kraft co-existence ratio in certain regions, and that the only way to decrease said

ratio would be to remove Kraft from certain points. These documents were found to be a part of Frito Lay's institutional plan to ensure the above goal.

41. In the examination conducted, documents were found which showed that competing producers were excluded from points of sales and/or which showed the TL value of the free products given to the points of sales to ensure the above outcome. These documents show practices in violation of the decision revoking the exemption.

42. The fact that the relevant documents were gathered from a total of ten different Frito Lay offices and were written by or with the knowledge of the mid-/high-level managers of the undertaking showed that this was not an individual practice but a widespread one.

43. Within the framework of this information, it was concluded that Frito Lay violated article 4 of the Act through practices aimed at ensuring the exclusive sales of its products at final points of sales, and that an exemption could not be granted for Frito Lay's practices aimed at being a single vendor.

44. **Conclusion:** 1. It was decided that Frito Lay violated article 4 of the Act no 4054 on the Protection of Competition by its practices aimed at the exclusive sales of its products at final points of sales,

45. 2. That an individual exemption cannot be granted to the practices in question since they did not fulfill the conditions listed in article 5 of the Act no 4054,

46. 3. That therefore administrative fines should be imposed on the aforementioned undertaking in accordance with paragraph three of article 16 of the Act no 4054 as well as with articles 5.1(b), 5.2 and 5.3(a) of the “Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position."

2.1.1.3 Linde Gaz A.Ş. (Linde) Investigation Decision [Decision Date and Number: 29.08.2013, 13-49/710-297]

47. The Board examined the claim that Linde Gaz A.Ş., operating in the industrial and medical gas market, together with Yalız Sınai Tıbbi Gazlar A.Ş., operating in the same market, concluded an agreement infringing competition law in the industrial and medical gas market for the Marmara region by quoting collusive prices to each other's customers, refusing to compete, setting joint prices and collusive bidding in public tenders; it also examined the claim that Linde Gaz A. Ş. had a similar anti-competitive relationship with Orsez Sınai Tıbbi Gazlar ve Kimyevi Maddeler Tic. San. Ltd. Şti., based in the Bursa province.

48. **Market:** Bulk oxygen, bulk nitrogen, bulk argon, bulk carbon dioxide, cylinder industrial oxygen, cylinder medical oxygen, cylinder nitrogen, cylinder argon and argon mixtures, cylinder carbon dioxide, acetylene, nitrogen protoxide (narcosis), cylinder hydrogen and cylinder helium market.

49. **Findings:** On-the-spot inspections conducted during the investigation process found, in particular, Linde's correspondence with Orsez and Yalızlar, and made observations concerning the sales channels of Linde.

50. Linde has three types of sales channels. The first channel is comprised of Linde's direct sales to final consumers. The second sales channel is comprised of Linde's exclusive Sales Partners and Dealers. Linde Sales Partners and Linde Dealers purchase industrial gas exclusively from Linde under single vendor purchase obligations and only sell Linde products. Sales Partners collect commissions by serving as intermediaries in agreements between Linde and final customers and have the characteristics of agents under competition law. Linde Dealers are reseller which, unlike Sales Partners, are not considered agents

but still purchase industrial gas exclusively from Linde and do not sell competing products. The third sales channel of Linde, which is the one under investigation, is comprised of independent fillers. Independent fillers are undertakings which number over 50 domestically and which procure industrial gas from iron and steel plants or from gas producers such as Linde. These undertakings generally purchase industrial gas from main producers in liquid form and sell it after filling it into their own cylinders at their own filling facilities. Linde creates a purchase-sale relationship with these undertakings by concluding "Non-Exclusive Customer Agreements".

51. In light of the practices of customer and region restriction in the purchase-sale relationship Linde entered with Orsez and Yalızlar, it was concluded that Linde's practices under its vertical agreement concerning those non-exclusive resellers known as independent fillers were in violation of article 4 of the Act no 4054, that the aforementioned practices were outside of the scope of the Block Exemption Communiqué on Vertical Agreements, no 2002/2, and that they could not be granted an individual exemption under article 5 of the Act no 4054. No violation was found on the part of the resellers Yalız and Orsez, which had a passive role within the framework of the vertical relationship which was determined to be in violation.

52. **Conclusion:** The Board decided that;

1. Linde Gaz A.Ş. violated article 4 of the Act no 4054 by the restrictions it introduced on Orsez Sınai Tıbbi Gazlar ve Kimyevi Maddeler Tic. ve San. Ltd. Şti. and Yalızlar Sınai ve Tıbbi Gazlar Teknik Hırdavat Makine San. ve Tic. A.Ş. concerning the resale of its products,
2. An exemption could not be granted to the relevant practices under article 5 of the Act no 4054,
3. Therefore an administrative fine should be imposed in accordance with article 16 of the Act no 4054 as well as with articles 5.1(b), 5.2 , 5.3(a) and 7.1 of the "Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position,"
4. Imposing administrative fines on Orsez Sınai Tıbbi Gazlar ve Kimyevi Maddeler Tic. ve San. Ltd. Şti. and Yalızlar Sınai ve Tıbbi Gazlar Teknik Hırdavat Makine San. ve Tic. A.Ş. was not necessary.

2.1.1.4 The Decision about the Investigation concerning Konya Çimento San. A.Ş., As Çimento San. ve Tic. A.Ş., Göltaş Göller Bölgesi Çimento Sanayi ve Ticaret A.Ş. and Denizli Çimento San. T.A.Ş. [Decision Date and Number: 17.09.2013, 13-54/756-316]

53. The investigation examined whether As Çimento San. ve Tic. A.Ş., (AS ÇİMENTO) Denizli Çimento San. T.A.Ş. (DENİZLİ ÇİMENTO), Göltaş Göller Bölgesi Çimento San. ve Tic. A.Ş. (GÖLTAŞ) and Konya Çimento San. A.Ş. (KONYA ÇİMENTO) violated article 4 of the Act no 4054 by jointly determining the sales conditions for cement and jointly controlling cement sales to independent ready mixed concrete producers.

54. **Market:** Market for cement and ready mixed concrete.

55. **Findings:** Undertakings' conduct within the scope of their activity areas, producing and selling ready-mixed concrete and cement, that seemed to violate article 4 of the Act no 4054 were examined and on-the-spot inspections were made. It was found that the representatives of Göltaş, Denizli Çimento and Konya Çimento, which were at the same time producers of ready mixed concrete, met under the body of Cement Employers Union and reached an understanding about issues such as refusing to supply or selling goods at high prices to some of the ready mixed concrete producers incumbent in Antalya region. As a result of the assessment of the information and documents obtained, it was concluded that the aforementioned undertakings jointly took strategic decisions about sales parameters in the market.

56. **Conclusion:** It was decided that Denizli Çimento San. T.A.Ş., Göltaş Göller Bölgesi Çimento San. ve Tic. A.Ş. and Konya Çimento San. A.Ş., operating in the market for ready mixed concrete and cement violated article 4 of the Act no 4054 and shall be imposed administrative fines.

2.1.1.5 The decision about the Investigation concerning Edirne Bus Station [Decision Date and Number: 02.12.2013, 13-67/928-390]

57. An investigation was conducted in order to find whether Volkan Yolcu Taşımacılığı Seyahat ve Nakliyat Tic. A.Ş. violated article 6 of the Act no 4054 by way of refusing to rent offices.

58. **Market:** The market for operating the Intercity Bus Station in Edirne.

59. **Findings:** The investigation concerning whether Volkan Metro Turizm Seyahat ve Nakliyat Tic. Ltd. Şti. (Volkan) violated article 6 of the Act no 4054 by refusing to rent offices examined the following points: (i) whether Volkan, which won the tender for operating Edirne Bus Station drove out by force transporters and agencies on the grounds that their previous lease contracts expired (ii) whether it avoided, without reasonable commercial grounds, making new lease contracts with undertakings including the complainants that operate in the Bus Station (iii) Whether Volkan, beside operating the bus station, carried out agency services where it competed with the complainants and abused its dominance with respect to operating the Bus Station in agency services (iv) whether Volkan tried to capture Edirne Bus Station by making contracts only with undertakings it controlled directly or indirectly; thus other firms had to make an agreement with Volkan's agencies in order to have a place in the Bus Station.

60. **Conclusion:** As a result of the assessment of the documents and information obtained during the investigation phase as a whole, it was concluded that the undertaking subject to investigation abused its dominant position in the market for bus station services to the detriment of consumers in the market for intercity road transport and violated article 6 of the Act no 4054 on the Protection of Competition. Therefore, according to Article 16 of the Act and Article 5(1)(b), 5(2) and 5(3)(a) of the Regulation on Fines to Apply in cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position, Volkan Yolcu Taşımacılığı Seyahat ve Nakliyat Tic. A.Ş. was imposed administrative fines.

2.1.1.6 The decision about Building Inspection Firms in Çorum [Decision Date and Number: 02.12.2013, 13-67/929-391]

61. **Market:** The market for building inspection services.

62. **Findings:** The Board examined the subject of the file before and took a decision thereon dated 23.06.2011 and numbered 11-39/816-259 according to which the turn system and market sharing practices violated article 4 of the Act no 4054 and an opinion shall be sent according to article 9(3) of the Act no 4054 to the undertakings subject to preliminary inquiry, Çorum Pozitif Yapı Denetim Ltd. Şti. , Çorum Teknik Yapı Denetim Ltd. Şti. , Günay Yapı Denetim Ltd. Şti., Hattuşa Yapı Denetim Ltd. Şti. , Kalite Yapı Denetim Ltd. Şti., Loca Yapı Denetim Ltd. Şti. , Toktaş Yapı Denetim Ltd. Şti. and Tunam Yapı Denetim Ltd. Şti., in order to ensure that the mentioned activities would be terminated.

63. However, as a result of the preliminary inquiry initiated upon similar complaints, documents obtained during on-the-spot inspections at the premises of building inspection firms in Çorum as well as Duru Bilişim, the firm offering information services to those firms, showed that building inspection firms shared work and observed each other's business through the pool system designed by Duru Bilişim. As a result of the assessments, it was concluded that building inspection firms in Çorum shared customers through the pool system between February 2011 and October 2012.

64. Besides, Duru Bilişim Teknolojileri Ltd. Şti., which was not a building inspection firm, participated to the violation by the said building inspection companies within the framework of article 14 of the Misdemeanor Act by making a program called Fair Work Allocation System.

65. Consequently, it was concluded administrative fines shall be imposed on building inspection firms in Çorum and Duru Bilişim.

66. **Conclusion:** The Board decided that Çorum İlk Yapı Denetim Ltd. Şti. , Çorum Pozitif Yapı Denetim Ltd. Şti. , Çorum Teknik Yapı Denetim Ltd. Şti. , Günay Yapı Denetim Ltd. Şti., Hattuşa Yapı Denetim Ltd. Şti. , Kalite Yapı Denetim Ltd. Şti., Loca Yapı Denetim Ltd. Şti. , Toktaş Yapı Denetim Ltd. Şti. and Tunam Yapı Denetim Ltd. Şti. violated the Act by means of sharing customers through the pool system and Duru Bilişim Teknolojileri İletişim Yayıncılık Eğ. İnş. Eml. Elektronik İth. İhr. İç ve Dış Tic. Ltd. Şti. participated to the violation by the said building inspection companies within the framework of article 14 of the Misdemeanor Act; therefore, administrative fines shall be imposed on Çorum İlk Yapı Denetim Ltd. Şti. , Çorum Pozitif Yapı Denetim Ltd. Şti., Çorum Teknik Yapı Denetim Ltd. Şti., Günay Yapı Denetim Ltd. Şti., Hattuşa Yapı Denetim Ltd. Şti., Kalite Yapı Denetim Ltd. Şti., Loca Yapı Denetim Ltd. Şti., Toktaş Yapı Denetim Ltd. Şti. ve Tunam Yapı Denetim Ltd. Şti'ye and Duru Bilişim Teknolojileri İletişim Yayıncılık Eğ. İnş. Eml. Elektronik İth. İhr. İç ve Dış Tic. Ltd. Şti.

2.1.2. Summary of significant cases – Examples from the decisions on exemptions and negative clearances

2.1.2.1 Exemption Decision for Determining Credit Card Clearing Rates by Inter-bank Card Center's Board of Directors [Decision Date and Number: 21.08.2013, 13-48/672-288]

67. The Board examined whether it is possible to grant negative clearance certificate/exemption to the practice of determining credit card clearing rates according to certain principles under the body of Inter-bank Card Center.

68. **Market:** The market for payment by credit cards.

69. **Findings:** The Competition Board granted 3-year individual exemption to determining credit card clearing rates by the decisions of Inter-bank Card Center's (ICC) Board of Directors according to the decision dated 19.08.2009 and numbered 09-36/904-216. As the said exemption expired on 16.04.2013, ICC made a new application requesting that with respect to calculating credit card clearing rates, the practice should remain the same for some of the items used whereas some of the items should be amended and new cost items should be added to calculations.

70. **Conclusion:** As per the new decision of the Competition Board:

1. The request of ICC that the practice should remain the same for the items currently in use shall be authorized. On the other hand, with respect to items that ICC requested amendments or additions, exemption shall be granted conditionally whereas some of the items shall not benefit from exemption. Accordingly, requests for amendments to issuing bank customer service costs and requests to add new items for non-performing loans and logo costs are excluded from exemption.
2. The Board concluded with respect to the request for an amendment to funding costs that exemption shall be granted on condition that "Weighted Average Interest Rates for Deposits" in TL up to one month, announced by the Central Bank of the Republic of Turkey, is taken as the interest rate that constitutes the basis of funding cost calculation and required reserves are not included.
3. Regarding net capital costs to be added, the Board required that this reserve should be limited to the reserve allocated for credit card receivables (card balance).

4. Moreover, clearing rates shall be published on ICC's website "monthly and showing the rates for the past 12 months, by sorting funding and operational costs to sub-items and specifying number of days for funding and funding interest rate separately".
5. Depending on those assessments, the Board ruled that the practice of determining credit card clearing rates by the decisions of ICC Board of Directors for three years as of the date when the performance of the conditions is documented to the Board.

2.2. Mergers and Acquisitions

2.2.1 Summary of significant cases

2.2.1.1 The decision clearing Acquisition by Yıldız Holding A.Ş. and Şok Marketler Ticaret A.Ş. all of the shares of DiaSA Dia Sabancı Süpermarketler Ticaret A.Ş. [Decision Date and Number: 26.06.2013, 13-40/513-223]

71. The request that acquisition by Yıldız Holding A.Ş. (YILDIZ HOLDİNG) and Şok Marketler Ticaret A.Ş. (ŞOK) of all of the shares of DiaSA Dia Sabancı Süpermarketler Ticaret A.Ş.from Distribuidora Internacional de Alimentación S.A., Dia Portugal Supermercados Sociedade Unipessoal Lda, Twins Alimentación S.A.U., Pe-Tra Servicios a la Distribución S.L.U. and Hacı Ömer Sabancı Holding A.Ş.

72. **Market:** There was not a precise market definition as the assessment related to the transaction did not change depending on alternative market definitions.

73. **Findings:** The subject of the decision was the acquisition of the right of control of DİA stores by YILDIZ HOLDİNG and ŞOK. According to the examination made and findings, the transaction concerned was subject to authorization under the scope of the Communiqué no 2010/4 Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board (the Communiqué no 2010/4).

74. The transaction concerned was first assessed with respect to vertical integration and buyer power. Within this framework, given that Ülker Group, which is under the control of YILDIZ HOLDİNG, has a very large product range and is a leader with high market power for many product categories, the possibility of Ülker to follow strategies to exclude its competitors in the downstream market and to restrict the ability of its competitors in the upstraem market to access downstream market as a result of the vertical integration was analyzed. It was concluded that the risk that Ülker Group would follow such strategies was low depending on the projection that those strategies would create costs more than benefits because of the factors such as inability to benefit from economies of scale, to find resources for timely introduction of the necessary innovations and high elasticity of demand.

75. The assessment with respect to buyer power showed that YILDIZ HOLDİNG did not have buyer power strong enough to create economic dependence and competitive concerns related to suppliers in any of the supply markets covering different product categories and the conditions would not change ex-post.

76. The acquisition was also analyzed with respect to whether it would create a dominant position or strengthen the existing dominant position. Within this context, it was found that total market shares of ŞOK and DİA were lower than 10% in the market for country wide organized retailing. Then, considering the fact that ŞOK and DİA stores had outlets smaller than 300 m2, market shares of ŞOK and DİA in the market for discount, local and small markets smaller than 300 m2 were analyzed on a city basis. The analysis showed that total market shares of ŞOK and DİA were mostly under 10% on a city basis and the cities where the market shares were expected to exceed 10% were Muğla and Yalova (10-15%).

77. In the next step, given that discount markets have a separate format because of stock keeping unit (SKU), private label products and other characteristics, they might be placed in a different market than supermarkets smaller than 300 m2, market shares of ŞOK and DİA were analyzed on a city basis within the scope of the most limited market share definition that can be specified as organized FMCG retail market except discount markets smaller than 300 m2. Within this framework, although market shares of ŞOK and DİA would increase in most cities, the total market share could only go up to 15-20% in Muğla and Yalova at most. The information demonstrated that it would not be possible to hold or strengthen a dominant position within the scope of article 7 of the Act no 4054 on the Protection of Competition (the Act no 4054) even if the market was defined in the most limited way according to alternative market definitions.

78. Besides, it was emphasized that both markets would operate in the form of small supermarkets, the market for supermarkets below 300 m2, characterized as small supermarkets, is the most dynamic and competitive segment. In this sense this segment of the market is favorable in terms of potential competition/entry and growth of existing actors.

79. **Conclusion:** Depending on the findings and assessments, it was decided that the transaction concerned is subject to authorization according to article 7 of the Act no 4054 and the Communiqué no 2010/4 issued based on that article, the transaction would not result in creating a dominant position or strengthening an existing dominant position and thus significant lessening of competition within the framework of the same article and therefore it shall be authorized.

2.3. Opinions

80. This section includes examples from the opinions submitted to various authorities and organizations concerning implementation or amendments in legislation in 2013, in accordance with articles 27(g) and 30(f) of the Competition Act[3]

2.3.1. Opinion on the Draft Regulation on Private Motor Vehicle Drivers

81. An Authority Opinion was prepared and submitted to the Ministry of National Education concerning the Draft Regulation on Private Motor Vehicle Drivers, which was prepared by the General Directorate for Private Education Institutions of the Ministry concerned.

82. The Authority opinion in question states, first of all, that currently there are 3300 driving courses in operation in Turkey with about two million people taking driving courses each year, that unlike other private education services procuring private education for candidate drivers is legally mandatory, which means consumers can not choose not to buy that service, and that therefore competition conditions in the sector are particularly important for consumers.

83. The rest of the Authority opinion emphasizes that there is a strict causal relationship between poor price competition and the competition violations encountered in the sector. For instance, it is mentioned that courses avoid the minimum training mandated by the relevant legislation in order to discount their prices unfairly, which makes the situation untenable for all undertakings in the market after a certain point. As a result, competing undertakings find a solution by choosing to enter into price agreements, which are explicitly prohibited by the Act no 4054. Sometimes, in addition to provisions

[3] Article 27(g) empowers the Competition Board to opine, directly or upon the request of the Ministry of Customs and Trade, concerning the amendments to be made to the legislation with regard to the competition law whereas Article 30(f) empowers the Presidency of the TCA to opine about decisions to be taken as to the competition policy, and the relevant legislation.

concerning the price and payment installments to be implemented, these agreements may also include arrangements that determine the maximum number of students each course can enroll for each term and/or set income allocation schemes (pooling practices). Consequently, the opinion states that establishing a structure that could prevent unfair price discounts by driving courses would also serve to significantly suppress infringements of competition in the sector, thereby paving the way for the creation of a sound competition environment. However, the opinion also points out that, when preparing regulations to establish such a structure, it is very important to correctly diagnose the reasons for the unfair price discounts observed in the sector, so that solutions may be developed for the problems in question in light of those diagnoses. Within that framework, the opinion identifies three main factors that lead to infringements of competition, and makes the following suggestions to eliminate or reduce these problems:

a) Excess supply in the sector: The fundamental structural problem of the sector is a lack of supply and demand equilibrium, in other words, excessive supply in comparison to demand. At this juncture, since it is not possible to increase demand by external intervention, total supply in the sector must be lowered to reasonable levels. However, supply should not be constrained by quantitative measures such as restricting the number of driving courses in proportion to population; instead this should be done via qualitative criteria aimed at enhancing the quality of service and infrastructure of driving courses, thereby ensuring provision of better service to consumers.
b) Adverse selection in consumer choice: In the driving courses market, there may be unfair discounts in prices at the expense of quality. Since demand for driving courses stems purely from a desire to get a driver's license, consumer choices are shaped without taking the quality factor into consideration. One reason for this is the fact that enrolling for a driving course is a legal precondition for getting a driver's license, and a more important reason is that the driving tests are not sufficiently selective, with candidates already knowing that they can pass the test without getting adequate training. Within this framework, the opinion points out that rendering the practical part of driving tests significantly more selective, in particular, would make large contributions to the consolidation of the sector, and that including an arrangement to that effect in the new regulation would ensure significant normalization in consumer choices.
c) Inefficiency of inspections and sanctions: Inadequate inspections and insufficiently deterrent sanctions play a significant role in the prevalence of illegal practices such as driving courses' failing to provide the minimum level of training they are legally obliged to give. It is emphasized that a healthy supervision mechanism in the sector may only be established not by auditing the invoices of driving courses, but by monitoring whether they are providing the level of training specified in the legislation. The opinion suggests that, in order to increase the effectiveness of the relevant inspections, meters could be installed in the vehicles used for training to monitor course hours or central tracks could be identified by the Ministry where many different companies in the sector could provide training and where supervision could be carried out more efficiently. It is also stated that imposing heavy sanctions, including suspension and cancellation of operating licenses, on driving courses acting in violation of the provisions of the legislation and including these sanctions in the current draft regulation would make significant contributions to the consolidation of the driving courses sector.

84. In addition, the Authority opinion evaluates in detail various policy choices presented by some circles as a solution for the unfair price discounts in the motor vehicle driving courses sector, such as setting minimum price tariffs and limiting the number of driving courses according to population. It concludes that trying to solve the problems of the sector through methods falling outside of market mechanisms, such as price or supply regulation, would lead to price increases to the detriment of consumers and would only serve to postpone the structural problems of the market, thus these methods are not preferable for the purposes of competition policy and economic welfare.

2.3.1. Opinion on Draft Bill Amending the Petroleum Market Law no 5015 and Certain Other Laws

85. Competition Authority submitted to the Ministry of Energy its opinion on the Draft Bill Amending the Petroleum Market Law no 5015 and Certain Other Laws (Draft Bill), which was drawn by aforementioned Ministry and which envisages certain renovations in the market design, including certain structural changes to the Energy Market Regulatory Authority (EMRA). The views and suggestions concerning the Draft Bill are categorized under the following headings.

2.3.1.1 Opinions and Suggestions Concerning Minimum Sales Obligations Placed on Distribution Firms

86. The Draft Bill eliminates the obligation in the Law no 5015 placed on distribution license holders to sell a minimum of 60,000 (sixty thousand) tons of white products per year and instead leaves the management of minimum sales obligations to regulations. The Authority opinion remarks that the minimum sales obligations for distribution companies are meant to ensure that distribution activities in the petroleum market are carried out by large, institutionalized companies with strong financial structures. However, it is also stated that minimum sales obligations are likely to create barriers to entry and therefore it would be more appropriate to abandon the regulation included in the Draft Bill which places minimum sales obligations on distribution companies.

2.3.1.2 Opinions and Suggestions Concerning the 30% Market Share Limit Specified for Distributors

87. The Board opinion states that the reduction of the 45% domestic market share threshold for distributors specified in the Law no 5015 to 30% in the Draft Bill would not be appropriate since, unlike markets such as electricity and natural gas, the petroleum market is not a natural monopoly. As such, there should be no objections if a firm that is operating efficiently in the market were to increase its market share, or even acquire dominant position. Moreover, in a free competition environment, the most effective incentive for firms to act in an efficient and competitive manner is the chance of increasing their profits by increasing their market shares.

88. Another negative aspect of the structural constraints of the kind prescribed in the Draft Bill is the difficulties encountered in practice. It is hard to clearly identify which "market" will be used in the calculation of the relevant market share thresholds since the relevant market can be identified based on the product (gasoline, diesel oil, LPG, Jet A1, fuel oil 6, etc.) on the product group (white products, black products), on the intended use (automotive fuel, aviation fuel, industrial fuel) or in a way that covers all types of petroleum products. There may also be other problems in determining market shares, such as whether to consider the total sales of all distribution companies under the control of the same natural or legal persons, or to calculate market shares for each distribution company separately from those of the other companies in the same group, regardless of whether they have the same control structure.

2.3.1.3 Opinions and Suggestions Concerning the Dealership System Based on Exclusive Purchasing Conditions

89. In summary, the Authority opinion states that the Draft Bill envisages no amendments concerning the Petroleum Market Law no 5015 provisions that provide for conducting dealership activities through exclusive sales agreements signed with distributors. However, allowing a uniform market structure consisting of only exclusive agreements may be insufficient for establishing a competitive structure. Therefore alternative dealership systems and mechanisms should not be prevented and, within this framework, independent stations as well as different systems such as selling fuel at supermarkets and similar facilities should be gradually allowed in the sector.

90. Also it is noted that the Draft Bill eliminates the provision which specifies that the sales of distributors through the stations they operate themselves cannot exceed 15% of the distributor's total domestic market share. The opinion points out that, within this framework distributors will play a more significant role in the retail market, thus eliminating any necessity to make exclusive sale agreements obligatory.

91. In addition, the opinion states that it would be appropriate to include a regulation in the Draft Bill concerning the duration of the exclusive dealership agreements distributors will sign with their dealers, within the framework of the Council of State and Competition Board decisions.

2.3.1.4 Opinions and Suggestions Concerning the Unbundling of Refinery and Distribution Activities

92. In accordance with both the Law no 5015 and the Draft Bill there is barrier preventing companies operating refineries to enter into the distribution and retail sale business, however refinery operators cannot engage in direct fuel distribution and can only engage in distribution activities through a distribution company they will need to set up.

93. The Authority opinion states that even though natural monopolies are not a concern, the lawmaker envisages legal unbundling between refinery activities and distribution activities in petroleum markets. Within this context, in order to ensure complete legal unbundling between these two types of activities in the petroleum markets, the relevant article of the Law should explicitly include the legal unbundling (performance of the activities concerned by different legal persons controlled by the same undertaking) concept and any details on the subject should be left to secondary legislation, in parallel with the regulations issued by the EMRA concerning electricity markets.

2.3.1.5 Opinions and Suggestions Concerning the Obligation to Be Active in Cylinder LPG Business in Order to Operate in the Autogas LPG Business

94. The Draft Bill places an obligation on those undertakings which wish to engage in autogas LPG activities to also launch a cylinder LPG business and operate at least one filling facility. The opinion points out that placing certain restrictions or pre-conditions on the undertakings which wish to enter the market in order to ensure certain standards for any activity poses the risk of creating barriers to entry in terms of the competitive structure of those markets. Therefore, for those regulations which create barriers to entry, the purpose for the introduction of those barriers must be in proportion to the drawbacks the barriers to entry will have on the competitive structure. Hence, the opinion states that it would be more appropriate to remove this limitation from the Law.

2.3.1.6 Opinions and Suggestions Concerning Pricing Mechanisms

95. According to the Authority opinion, in light of the current structure, the lawmaker should take under advisement the suggestion that pricing mechanisms implemented for refinery activities should not be

simply subject to notification, instead they should be subject to authorization by the relevant Authority. Within the same context, the opinion states that the Law no 5015 does not include any clear provisions on which factors should be taken into consideration by the dealers when setting retail prices to be implemented, and that it only brings obligations on distribution companies to notify their maximum prices to the EMRA. In a preliminary inquiry conducted by the Competition Board in 2012, it was found that distribution companies closely monitored the maximum prices their competitors notified to the dealers and thus they almost always responded to any change in refinery prices by adjusting their own prices simultaneously and by the same amounts. As such, it would beneficial to terminate with the draft bill the practice of notification of maximum prices to dealers and publication of the notified maximum prices on the websites of the distribution companies, since this practice is thought to have a significant coordinating effect on price competition both at the distribution and the retail levels. The opinion also notes that in consideration of the possibility of failing to derive the expected benefits from the regulation specified, the Ministry can be granted the power to make it mandatory for distribution companies to notify maximum prices to their dealers on a temporary or permanent basis via secondary legislations.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

96. In addition to the developments mentioned above, with the signings of bilateral protocols TCA aims at ensuring mutual cooperation, information and opinion exchange, and coordination for the purposes of establishing, developing and protecting a free and healthy competitive environment in regulated markets. In this regard TCA has already signed protocols with Public Procurement Authority, Communication Technologies Authority and Banking Sector Regulation and Supervision Agency. Efforts for signing a similar protocol with the Energy Market Regulatory Authority are ongoing.

4. Resources of the TCA

4.1. Resources overall (current numbers and change over previous years)

4.1.1. Annual budget (in TL and USD)

97. Revenues of the TCA are determined by the Competition Act as follows in Article 39. According to this article, revenues of the TCA set up the budget of the TCA, and they are made up of the following items of revenues:

- The subsidy to be allocated in the budget of the Ministry of Customs and Trade,
- Payments to be made by four per ten thousand of the capitals of all partnerships to be newly established with the status of an incorporated and limited company, and that of the remaining portion in case of capital increase,
- Publication and other revenues.

98. Revenues belonging to the TCA are collected in an account to be opened in the Central Bank of the Republic of Turkey or a state bank.

99. The spending budget of the TCA in year 2012 was 57,4 million TL approximately 27 million USD. This shows a %20 increase from the previous year.

100. Moreover, although it is provided for in Article 39 of the Competition Act, there has not been a subsidy in the budget of the Ministry of Customs and Trade and the TCA has not taken any aid from the general budget transfer scheme since its establishment in 1997.

4.1.2. Number of employees

- Non-administrative competition staff 171
- All staff combined: 352

4.2. Human resources (person-years) applied to: Enforcement against anticompetitive practices, Merger review and enforcement; Advocacy efforts.

101. Turkish Competition Authority was not structured as to assign staff with respect to competition enforcement activities. Rather the staff is divided into five main enforcement departments which are assigned sectoral areas. Any merger filings or antitrust infringement complaints regarding a sector are delivered to the head of the department assigned to that sector. Then the department head distributes cases to NAC staff for analysis. There is also NAC Staff employed in External Relations, Training and Competition Advocacy; Strategy Development and Decisions Departments.

4.3. Period covered by the above information:

- 2013

ANNEX: STATISTICAL INFORMATION FOR THE YEAR 2013

Table 1. Files Concluded

Year	Infringements of Competition	Exemption/Negative Clearance	Merger/Acquisition/Joint Venture/Privatization	Total
2012	303	50	303	656
2013	191	58	213	462

Table 2. Files Concluded Under the Scope of Articles 4 and 6 of the Competition Act

Year	Article 4	Article 6	Both Together (4 and 6)	Total
2012	168	108	27	303
2013	117	57	17	191

Table 3. Horizontal and Vertical Agreements Examined under the Scope of Article 4 of the Competition Act

Year	Horizontal	Vertical	Together (H/V)	Total
2012	121	67	6	194
2013	67	63	4	134

Table 4. Results of the Applications Regarding Exemption and Negative Clearance

	Concluded Negative Clearance Files			Concluded Exemption Files							
	Applications that are granted Negative Clearance	Applications that are granted Negative Clearance with Conditions	Applications that are not Granted Negative Clearance	Cases including Agreements that are granted individual exemption	Cases including Agreements that are not Granted Exemption and Required Corrections	Cases including Agreements that are Under The Scope of Block Exemption	Cases including Agreements that are Granted Individual Exemption with Conditions	Cases including Agreements that are under the scope of Block Exemption after conditions	Cases including Agreements that are not granted exemption	Cases including Agreements from which exemption was withdrawn	Cases including Agreements where individual and block exemption were evaluated together
2012	12	-	-	20	-	3	8	1	5	-	1
2013	10	-	-	27	-	9	4	-	4	-	3

Table 5. Number of Merger and Acquisition Decisions

Year	Merger	Acquisition	Joint Venture	Privatization	Total
2012	1	190	91	21	303
2013	1	125	68	19	213

Table 6. Results of Merger and Acquisition Notifications

Year	Cleared	Cleared Under Conditions	Blocked	Out of scope (not satisfying the thresholds)
2012	262	-	-	41
2013	162	-	-	51

Table 7. Fines Imposed[4] (TL)

	Year	Total	Infringements	Merger/Acquisition	Exemption/Negative Clearance
Fines related to substance	2012	60.411.864	60.411.864		
	2013	1.187.220.597	1.187.220.597		
Fines imposed on executives	2012	20.718	20.718		
	2013	-			
False or misleading information in an application	2012	-			
	2013	352.664			352.664
False or misleading information given during on the spot inspections	2012	76.129	76.129		
	2013	-			
Finalizing a transaction without permission of the Competition Board/Failure to notify within due date	2012	119.057		119.057	
	2013	242.813		242.813	
Incompliance with the decision of the Competition Board related to Article 9	2012	-			
	2013	-			
Hindrance of on the spot inspection	2012	-			
	2013	15.540.501	15.540.501		

[4] The table does not reflect new fines in the files annulled by the Council of State, the high administrative court.