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Barriers to Exit – Note by Turkey

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More documents related to this discussion can be found at
http://www.oecd.org/daf/competition/barriers-to-exit.htm

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1. Introduction

1. Barriers to exit a market is important for a firm deciding to enter a market and for an inefficient firm as well because barriers to exit effects its long term decision to exit or stay in the market. Having a high exit barrier may deter a newcomer and enable incumbent firms to earn above normal returns. On the other hand, allowing an inefficient firm to leave the market by lowering the barriers to exit provides allocative efficiency in an economy by reallocation of inefficient firm's assets and increases productivity and efficiency gains for efficient firms.

2. It is worth noting that the exit barriers are not regulated under the Turkish competition legislation. However, in this contribution, we would like to highlight the Turkish Competition Authority (TCA)'s approach towards barriers to exit through market studies, antitrust cases and mergers and acquisitions as below.

2. Market Studies

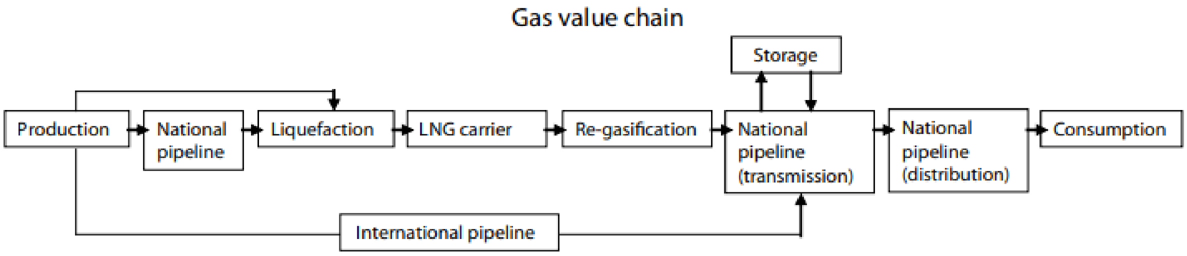
3. To date, TCA has conducted 14 market studies. Exit barriers were not specifically analyzed in each of the market studies. However, in its "Natural Gas Market" and "Cement Market" reports, exit barriers were considered as a factor effecting the competition in these markets. Therefore, it would be better to elaborate how exit barriers were treated in each report.

2.1. Natural Gas Market Study

4. In the natural gas market study[1], need of high volume investments and long-term contracts were explicitly stated as a barrier to exit. It is noted in the study that the distinctive feature of the natural gas market is that the regions where natural gas is produced and consumed are different. The most important factor here is undoubtedly the constraints encountered in the transport of natural gas[2]. Transporting gas over long distances by pipelines is a capital-intensive activity and a financial challenge. On the other hand as shown below, there are several stages from the extraction of natural gas to the delivery to the consumer. For this reason, the geopolitical side comes to the forefront before the financial/investment dimension of international gas trade.

1 https://www.rekabet.gov.tr/Dosya/sektor-raporlari/7-rekabet-kurumu-dogal-

2 From the extraction of natural gas to the delivery to the consumers there are many stages such as production, national and international pipelines, liquefaction, LNG carrier, re-gasification, storage, transmission, distribution, and consumption.



Source: "Putting a Price on Energy: International Pricing Mechanisms for Oil and Gas", Energy Charter Secretariat, 2007, n. 37.

5. In addition to high investments, the report draws attention to the fact that export agreements have been concluded mostly for at least 15-20 years[3]. Therefore, we can say that, in this market, having agreement that has a very long duration can also be considered as a barrier to exit.

2.2. Cement Market Study

6. In the cement market study[4], cement market is considered as a market where supply elasticity is low as the market requires high investments and it takes time to start the production. In this market not only the investment costs are high but also these investment costs are an important exit factor as they can not be liquidated or used for other purposes. In this way, we can say that the barrier to entry and exit to the cement market is high and to enter or exit to this market is not easy, as it requires significant investment costs. As a result, it is stated that this is a factor, which raises the concentration level in the market.[5]

3. Anti-trust Cases

7. In this section, important anti-trust cases in which TCA explicitly included barriers to exit as a factor in its decision will be mentioned.

8. In *Okulcu*[6] Case, the relevant product market was defined as school uniforms, where school uniforms were determined separately by each school and students were required to buy these uniforms. It was concluded in the decision that there were exit barriers due to inventory costs. Since school uniforms were determined separately by each school, the demand for the products had a structure that makes it difficult to achieve economies of scale. Hence, all these issues cause only one company to sell all of school clothes in the

3 It is stated that this situation will cause difficulties for the managers of the company in risk management in terms of currency and other contractual risks.

4 https://www.rekabet.gov.tr/Dosya/sektor-raporlari/12-cimento-sektor-raporu-pdf

5 Cement locally produced in Turkey are usually made of a consumption that requires extremely high cost of transport and regional structures. While the transportation of cement has high costs, the region where the cement can be sold economically does not exceed a certain distance. If cement is transported further away from the specified distance, the market's profitability may be lost due to the high cost of transportation.

6 Case No: 12-11/372-107; Case Date: 14.03.2012.

city center of Manisa, thus making Okulcu a dominant in the relevant market, and also making inventory costs that cannot be liquidated as barrier to exit.

9. In *TÜRSAB*[7] case, barriers to exit was treated differently by the Turkish Competition Board (Board). In this case, TÜRSAB, which is the association of undertakings in the travel agency market, has started to apply high entrance fee for new entrants in order to operate in the market with the decision of its general assembly. The Board stated that *TÜRSAB*'s entry fee application could be considered as an entry barrier. However, since the undertakings entering the market should undergo a certain initial cost, this entrance fee could be regarded as a sunk cost and a barrier to exit from the market. The Board decided that *TÜRSAB* should stop requiring an entrance fee for applications and the fined *TÜRSAB* breaching the Turkish Competition Law via abuse of dominant position.

10. *Sadabad Ekmek*[8] case is a case in which the Board considered exit barriers as a factor to determine whether Sadabad Ekmek was in a dominant position or not. In this case the relevant market was defined as bread and it was stated that the initial investment costs to enter this market was not high, there were no high sunk costs and therefore no barriers to entry and exit since the undertakings that would like to terminate their activity have the opportunity to sell the related machinery and equipment to the other firms. Upon examining these and other factors, the Board dismissed the case, as Sadabad Ekmek was not found to be in a dominant position.

4. Mergers and Acquisitions

11. When we look at how the Board uses exit barriers in its merger and acquisition decisions (such as *Megadyne*[9], *Glencore*[10], *LF Invest*[11], *PR Net*[12], *Titanium dioxide*[13], and *Taylor Nelson*[14]), we can see that the barriers to enter and exit were evaluated together.

12. However, *Vicat*[15] case and *Bağımsız Gazeteciler*[16] cases are worth mentioning, as in *Vicat* case, besides high investments, vertical integration was accepted as a barrier to exit and in *Bağımsız Gazeteciler* case exit barriers were analyzed for failing firm defense[17].

7 Case No: 06-45/572-156; Case Date: 22.06.2006.

8 Case No: 11-59/1518-543; Case Date: 24.11.2011.

9 Case No: 18-29/483-235; Case Date: 27.08.2018.

10 Case No: 12-30/872-257; Case Date: 06.06.2012.

11 Case No: 10-67/1423-539; Case Date: 27.10.2010.

12 Case No: 10-66/1402-523; Case Date: 21.10.2010.

13 Case No: 10-01/6-4; Case Date: 6.1.2010.

14 Case No: 08-52/788-317; Case Date: 11.9.2008.

15 Case No: 19-17/243-110; Case Date: 02.05.2019.

16 Case No: 08-23/237-7; Case Date: 10.3.2008.

17 In this case, bankruptcy was considered as a barrier to exit as bankruptcy laws can generate various barriers for entrepreneurship development. These barriers can be listed as no-riddance from heavy debt loads, not having a fresh start, facing with bigger financial because of slow moving

5. Conclusion

13. In two market studies, which are Natural Gas Market Study and Cement Market Study, both markets were identified as having unduly high barriers to exit. In most of the cases of TCA, entry and exit barriers are analyzed together, as entry barriers could also be considered as exit barriers for an industry (in other words; exit barriers are treated as an indirect form of barriers to entry).

14. In order to ensure a competitive environment, TCA proposed that entry-exit barriers in these markets should be reduced by implementing regulations such as the abolition of various privileges and obligations in the development process, functional/structural separation, allowance for access by third parties and activation of transparency.

15. Overall, the types of exit barriers TCA has encountered can be stated as sunk costs (high investments specific to the market, due paid for entry to the market that cannot be liquidated, promotional expenses and equipment that cannot be used for any other purpose, investments in marketing network are considered as barriers to exit), vertical integrations, patents/licenses, government policies and state regulations. Among these exit barriers, sunk costs are the most common form of exit barriers encountered in the Turkish competition law cases.

procedures etc. Easing of these factors can encourage entrepreneurs to enter the market, and thus contribute to the operational effectiveness of the market.