

From the Presidency of the Competition Authority,

COMPETITION BOARD DECISION

File No : 2018-2-038
(Investigation)
Decision No : 20-49/675-295
Decision Date : 12.11.2020

A. MEMBERS IN ATTENDANCE

Chairman : Birol KÜLE

Members : Arslan NARİN (Deputy Chairman), Şükran KODALAK,
Ahmet ALGAN, Hasan Hüseyin ÜNLÜ

B. RAPPORTEURS : Hatice YAVUZ, Selin DURSUN, Kemal KÜÇÜKKAVRUK,
Ender YILDIZ, Betül AYHAN, Selçuk YILMAZ, Funda GÖKTEPE

C. APPLICANT : Requested confidentiality.

D. UNDER INVESTIGATION:

- Alphabet Inc.
1600 Amphitheatre Parkway, Mountain View, CA 94043,USA
- Google LLC
1600 Amphitheatre Parkway, Mountain View, CA 94043,USA
- Google International LLC
Corporation Service Company, 251 Little Falls Drive,
Wilmington, DE, 19808, USA
- Google Ireland Limited
Google Building Gordon House, 4 Barrow St, Dublin, D04
E5W5, IRELAND
- Google Reklamcılık ve Pazarlama Ltd. Şti.
Tekfen Tower Eski Büyükdere Caddesi No: 209, 4. Levent
34394 Şişli/Istanbul
Representatives: Atty. Gönenç GÜRKAYNAK, Atty. Kemal
Korhan YILDIRIM, Atty. Betül BAŞ ÇÖMLEKÇİ, Atty. Ali
Kağan UÇAR
Yıldız Mah. Çitlenbik Sok. No: 12 34349 Beşiktaş/Istanbul

(1) **E. SUBJECT OF THE FILE:** The claim that the economic entity comprised of Google Reklamcılık ve Pazarlama Ltd. Şti., Google International LLC, Google LLC, Google Ireland Limited ve Alphabet Inc. (Google) abused its dominant position and complicated the activities of undertakings by the updates it made in general search services and AdWords advertisements.

(2) **F. SUMMARY OF THE ALLEGATIONS:** Briefly, the application raises the following issues and requests that the necessary sanction be imposed on Google under the Act no 4054:

- Google abandoned its benevolent attitude towards IT (information technology) entrepreneurs after going public,
- Google changed its ranking algorithm with the Panda update in 2011 and the Penguin update in 2012, rendering the criteria that used to play a role in the ranking negative, which made the criteria that previously helped to get a high ranking suddenly push websites out of the Google index altogether,
- After these updates, the applicant's company lost 80% of its turnover and had to close the company later on,
- Google officials described the updates as experimental and could not predict their results,
- Google added a negative record to penalize the relevant domain name, thousands of dollars had to be spent to get this negative record deleted, but no results could be obtained and therefore it was not possible to reverse the negative effect in question,
- These updates bankrupted many companies, put giant companies in a difficult position,
- The company provided shopping services with a commission rate of (.....)%, carried out intermediation activities and sent products to all over the world,
- The company was operating successfully until Google's updates in question, they did good business for two years after 2009, but their turnover decreased by 80% following the Google's updates,
- These updates upset the internet and a group was formed on change.org to undo the Penguin update,
- It was said that the update intended to improve the quality of the search results,
- The purpose of these updates was to direct the undertakings to AdWords, after the change, extra costs were incurred by the sites,
- Prior to the Panda update, the basic element Google focused on for the rankings had been the number of directories from other sites, but with the Panda update, content became the basic criteria, resulting in a loss of ranking for websites with poor content,
- It was claimed that Google is did this to create content for itself,
- The ranking logic changed with Penguin and the quality of the links to websites became important,
- The links received were expected to be of good quality, the links were considered to be of good quality if it was from an article, etc. and any visits not coming from a quality link was considered negative,
- Most of the visitors to the sites came from Google, with other sources of traffic remaining very limited,
- Google's goal was to increase paid search advertising revenues and there was an unexpected increase in those revenues that year,

- Working with SEO (search engine optimization) experts was less costly than working with AdWords,
- Google does not provide information about the updates,
- Google believes that it has the power to change internet,
- The penalties¹ were imposed by the algorithm, not by a human being, and it was very difficult to revoke the penalty,
- Google's purpose was to increase use of AdWords advertisements,
- With these updates Google complicated the conditions of access to the internet, which were previously easier, the internet began to turn into the domain of owners of large capital owners with the technical capacity and budget to access the Google AdWords platform, therefore it was mostly the small actors that were impacted,
- These updates were not thought to be directly related to Google Shopping,
- After the update, the site that ranked first in Bing² and Yahoo was not available on Google,
- There were attempts to update the site, but it is meaningless to expect content from an e-commerce site,
- It is not known exactly what was meant by "content",
- Google is not a user-friendly site, they direct the complaints to a product forum,
- It is thought that the impact would not have been so large if information was provided about the updates beforehand.

(3) **G. STAGES OF THE FILE:** The Initial Investigation Report no. 2018-2-38/II, prepared in response to the application that entered into the Competition Authority records with the number 5314 on 23.07.2018, was discussed in the Competition Board (Board) meeting of 27.08.2018, and the decision no 18-29/500 was taken, launching a preliminary inquiry on Google Reklamcılık Limited Şirketi (Google Türkiye).

(4) The Preliminary Inquiry Report dated 04.12.2018 and numbered 2018-2-038, prepared as a result of the preliminary inquiry performed in line with the aforementioned decision, was discussed in the Board Meeting dated 13.12.2018, and the decision no 18-47/732-M was taken to launch an investigation under Article 41 of the Act no 4054 on Google Reklamcılık ve Pazarlama Ltd. Şti., Google International LLC, Google LLC, Google Ireland Limited and Alphabet Inc. in order to determine whether they violated the same Act.

(5) In accordance with Article 43/2 of the Act no. 4054, Google was notified that an investigation was launched, and that Google had to submit its first written plea within 30 days, in response to which Google's first written plea entered the Authority records on 28.01.2019, with the number 580.

(6) The information note dated 20.05.2019 and numbered 2018-2-38/BN

¹ It is inferred that the term penalty refers to a "negative" evaluation of the web pages by Google through the algorithms.

² Bing (www.bing.com) and Yahoo (www.yahoo.com) are rival search engines operating in the market.

concerning an extension was discussed at the Board meeting of 23.05.2019, and it was decided to extend the investigation for a period of 6 month after its expiry.

(7) Information and document request letters were sent to Google within the scope of the investigation on 31.07.2019 and 09.10.2019. In addition, some companies operating in the sector were interviewed, and information and documents were requested from many companies. Requested information and documents were entered into the Authority records as follows:

- From Microsoft Bilgisayar Yazılım Hiz. Ltd. Şti. (Microsoft), on 02.09.2019, with the number 5779,
- From Crovu Yazılım Danışmanlık ve Ticaret A.Ş. (Crovu software) on 04.09.2019, with the number 5828,
- From Malzemem Yapı ve Elektrikli Gereçler Ticaret. A.Ş. (Evidea) on 06.09.2019 with the number 5901, on 11.10.2019 with the number 6847, on 14.10.2019 with the number 6906,
- From Biletix Bilet Dağıtım Basım ve Ticaret A.Ş. (Biletix) on 09.09.2019 with the number 5942, on 11.10.2019 with the number 6883,
- From Doğuş Dijital Hizmetler A.Ş. (Puhu TV) on 09.09.2019 with the number 5956, on 11.10.2019 with the number 6864,
- From Google on 20.08.2019 with the number 5403, on 03.09.2019 with the number 5808, on 04.11.2019 with the number 7621, on 11.11.2019 with the number 7843, on 12.11.2019 with the number 7886, on 19.11.2019 with the number 8063, on 02.12.2019 with the number 8377,
- From Lateks Çorap ve Tekstil San. Ve Dış Tic. Ltd. Şti. (Lateks) on 09.09.2019 with the number 5963,
- From Setur Servis Turistik A.Ş. (Setur) on 10.09.2019 with the number 5992, on 12.09.2019 with the number 6089,
- From Boyner Büyük Mağazacılık A.Ş. (Boyner) on 10.09.2019 with the number 5993, on 12.09.2019 with the number 6082,
- From Glokal Dijital Hizmetler Pazarlama ve Ticaret A.Ş. (Hürriyet Emlak) on 10.09.2019 with the number 5999,
- From Zingat Gayrimenkul Bilgi Sistemleri A.Ş. (Zingat) on 10.09.2019 with the number 6000,
- From Özaltun Otelcilik Turizm ve Tic. A.Ş. (Özaltun) on 11.09.2019 with the number 6044, on 24.10.2019 with the number 7320,
- From oBilet Bilişim Sistemleri A.Ş. (oBilet) on 11.09.2019 with the number 6060,
- From Sahibinden Bilgi Teknolojileri Pazarlama ve Ticaret A.Ş. (Sahibinden) on 11.09.2019 with the number 6061,
- From Otokoç Otomotiv Tic. Ve San. A.Ş. (Otokoç Otomotiv) on 12.09.2019 with the number 6081, on 14.10.2019 with the number 6908, on 04.11.2019 with the number 7610,
- From Kitapyurdu Yayıncılık ve İletişim A.Ş. (Kitapyurdu) on 16.09.2019 with the number 6140,

- From Vivense Teknoloji Hizmetleri ve Ticaret A.Ş. (Vivense) on 16.09.2019 with the number 6147, on 16.09.2019 with the number 6172, on 17.09.2019 with the number 6203, on 16.10.2019 with the number 6988,
- From Fırsat Elektronik Tic. Ve San. A.Ş. (Morhipo) on 16.09.2019 with the number 6153,
- From Niva Yazılım Bilgisayar Danışmanlık Hiz. San. Tic. Ltd. Şti. (Niva Yazılım) on 16.09.2019 with the number 6155,
- From Yandex Reklamcılık Hizmetleri Ltd. Şti. (Yandex) on 16.09.2019 with the number 6167 with the number 6168,
- From Çiçek Marketçilik İnternet Hizmetleri A.Ş. (Çiçek Market) on 16.09.2019 with the number 6170,
- From D Elektronik Şans Oyunları ve Yayıncılık A.Ş. (D Elektronik) on 17.09.2019 with the number 6193, on 14.10.2019 with the number 6904,
- From Çiçeksepeti İnternet Hizmetleri A.Ş. (Çiçek Sepeti) on 13.09.2019 with the number 6116,
- From Arıkan Mağazacılık A.Ş. (Konyalı Saat) on 17.09.2019 with the number 6204, on 12.12.2019 with the number 8666,
- From Bilyoner İnteraktif Hizmetler A.Ş. (Bilyoner) on 17.09.2019 with the number 6205,
- From DSM Grup Danışmanlık İletişim ve Satış A.Ş. (Trendyol) on 18.09.2019 with the number 6236,
- From İlab Holding A.Ş. (İlab Holding) on 18.09.2019 with the number 6244,
- From Gittigidiyor Bilgi Teknolojileri Sanayi ve Ticaret A.Ş. (Gittigidiyor) on 18.09.2019 with the number 6247, on 17.10.2019 with the number 7016,
- From Olimtur Seyahat Acentaları Otomotiv Tur. ve İnş. San. Tic. Ltd. Şti. (Olimtur) on 18.09.2019 with the number 6251,
- From EST Marjinal Medikal Tanıtım Sanayi Ticaret A.Ş. (Sefamerve) on 19.09.2019 with the number 6269, on 11.10.2019 with the number 6877,
- From Amazon Turkey Perakende Hizmetleri Ltd. Şti. (Amazon) on 19.09.2019 with the number 6275, on 14.10.2019 with the number 6935,
- From ETS Ersoy Turistik Servisleri A.Ş. (ETS Tur) on 19.09.2019 with the number 6281,
- From ETS Ersoy Turistik Servisleri A.Ş. (Ucuzabilet) on 19.09.2019 with the number 6282,
- From LC Waikiki Mağazacılık Hiz. Tic A.Ş. (LC Waikiki) on 16.09.2019 with the number 6172, on 17.09.2019 with the number 6203, on 19.09.2019 with the number 6290, on 30.10.2019 with the number 7514,
- From Doğu Planet Elektronik Ticaret ve Bilişim Hizmetleri A.Ş. (N11) on 20.09.2019 with the number 6322, on 11.10.2019 with the number 6869,
- Yemek Sepeti Elektronik İletişim Tanıtım Pazarlama Gıda Sanayi ve Ticaret A.Ş. (Yemeksepeti) on 20.09.2019 with the number 6333,
- From Tatilbudur Seyahat Acenteliği ve Turizm A.Ş. (Tatilbudur) on 23.09.2019

with the number 6359,

- From the Association of Advertising Agencies on 24.09.2019 with the number 6404,
- From the Association of Advertisers on 24.09.2019 with the number 6405,
- From D-Market Elektronik Hizmetler ve Ticaret A.Ş. (Hepsiburada) on 26.09.2019 with the number 6460,
- From Enuygun Com İnternet Bilgi Hizmetleri Teknoloji ve Ticaret Ltd. Şti. (Enuygun) on 27.09.2019 with the number 6501,
- From Interactive Advertising Bureau (IAB) on 27.09.2019 with the number 6503,
- From Pegasus Hava Taşımacılığı A.Ş. (Pegasus) on 27.09.2019 no 6516,
- From Doğan Müzik Kitap Mağazacılık ve Pazarlama A.Ş. (Doğan Müzik) on 14.10.2019 with the number 6903,
- From Facebook, Inc. (Facebook) on 21.10.2019 no 7148,
- From BTB Kimya Tekstil Otomotiv San. ve Tic Ltdi. Şti. (Yedekparçaseç) on 12.12.2019 with the number 8668,
- From Defacto Perakende Ticaret A.Ş. (Defacto) on 12.12.2019with the number 8670,
- From Turkcell İletişim Hizmetleri A.Ş. (Turkcell) on 12.12.2019 with the number 8672,
- From Nesares Tekstil A.Ş. (Abiyelerim) on 12.12.2019 with the number 8683.

(8) The investigation report (Report) dated 12.12.2019 and numbered 2018-2-038/SR, prepared within the scope of the investigation conducted, was received by Google on 19.12.2019.

(9) Upon the request of Google, the second written plea period was extended by 30 days pursuant to the article 45/2 of Act no. 4054 with the Board's decision dated 02.01.2020 and numbered 20-01/8. In this context, Google's second written Plea (Plea) was submitted to the Authority records within the legal period with the letter dated 17.02.2020 and numbered 1682. The information requested from Google, based on the information needed in the process, was entered into the Authority's registrations on 28.02.2020 with the number 2107 and on 02.03.2020 with the number 2153.

(10) Pursuant to the Article 45 of the Act No. 4054, the Additional Opinion dated 02.03.2020 and numbered 2018-2-38/EG was prepared by the investigation committee in response to the written plea submitted upon the notification of the investigation report, and this was received by Google on 09.03.2020.

(11) The period for the submission of the third written plea to be submitted in response to the additional written opinion was extended by 30 days with the Board decision dated 19.03.2020 and numbered 20-15/202, and the third written plea was entered into the Authority records on 07.05.2020 with the number 4270. Google submitted a request for a hearing in its written pleas.

(12) The Board established the final decision on the basis of the Report prepared on the investigation conducted, the Additional Opinion, the evidence gathered, the written

pleas and the contents of the file examined.

(13) **H. RAPPORTEUR'S OPINION:** The related report and Additional Opinion reached the following conclusions:

1. The economic unity comprised of Google Reklamcılık ve Pazarlama Ltd. Şti., Google International LLC, Google LLC, Google Ireland Limited and Alphabet Inc., which are under investigation, holds dominant position in the general search services market,
2. Google complicated the activities of the organic results, which do not generate advertising revenue, within the content services market and violated Article 6 of the Act on the Protection of Competition no. 4054 by placing frequent text ads at the top of the general search results, without clearly indicating their advertisement nature,
3. For this reason, an administrative fine should be imposed on Google under Article 16.3 of the Act on the Protection of Competition no. 4054 and the provisions of the Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position,
4. In order to terminate the violation referred to in Article 2 and to establish effective competition in the market, the following obligations should be imposed on Google:
 - a. Within a reasonable time to be determined by the Board,
 - Google must begin displaying text ads at a scale and/or location that will not exclude organic results from the market,
 - The ambiguity in the advertising nature of text ads must be removed so as to clearly differentiate them from organic results,
 - Measures must be taken to eliminate the effect of websites' placing text ads on their organic rankings,
 - b. Google must prepare and submit compliance measures to the Authority, at least one month before the deadline established,
 - c. Google must periodically submit an annual report to the Authority for 5 years following the application of the first compliance measure,
5. A daily administrative fine should be imposed on Google if it fails to meet the obligations set forth in clause 4(a) in full within a timely period.

I. EXAMINATION, GROUNDS AND LEGAL BASIS

I.1. The Party Under Investigation: Google

(14) Google Reklamcılık ve Pazarlama Ltd. Şti. (Google Türkiye), was founded in Turkey as a limited company on 1 August 2005, and it is a legal entity independent from Google LLC. Google Türkiye's main field of activity is to market and advertise Google's products. On the global scale, Google is responsible for the development of the algorithms of the Google Search Engine (Google Search) and any changes in the algorithms. Google Türkiye does not operate the Google Search Engine or Google AdWords, and does not itself provide this service to users. Google Search and AdWords are operated and managed by Google LLC. AdWords ads are provided to advertisers in Turkey by Google Ireland Limited (GIL), a separate legal entity

established in Ireland. Google Türkiye's operations are entirely independent from GIL and its activities.

(15) The support activities that Google Türkiye provides to Google LLC in order for the latter to carry out its services in Turkey can be summarized as follows:

- Promotion and marketing of the digital advertising and other services operated and managed by Google LLC and provided by GIL to users in Turkey,
- Providing information to consumers, advertisers and authorities about the features, usage, policies, functioning and benefits of products and services,
- Providing information concerning the methods for communicating any complaints and requests by the users to Google LLC, which is the operator of the services and products, and to GIL, which is the provider of advertising services and products in Turkey.

(16) The following table shows the shareholders structure of Google Türkiye as of 09.12.2019.

Table 1: Google Shareholders Structure

Shareholders	Share Percentage (%)
Google International LLC	(.....)
Google LLC	(.....)
Source: Google	

(17) As shown in the table above, Google Türkiye's main shareholder is Google International LLC. Google LLC controls Google International LLC directly and corporate management of Google International LLC is handled by Google LLC. Therefore, Google Türkiye is an indirect subsidiary of Google LLC.

(18) Google LLC is based in the USA. Google's main activity is the operation of a search engine, called Google, which allows users to search for information online by entering queries. Google also offers several other online services and software products. Additionally, as a member of the Open Handset Alliance (OHA), Google provides Android, an open-source mobile software platform. Google provides the majority of these services around the world, including Turkey.

(19) According to the information on file, Alphabet Inc. is a multinational and publicly traded company founded in 2015 to gather Google and other Google-owned companies under a single umbrella. It mainly focuses on technology, research, sciences, and investment capital. It is known that Alphabet basically focuses on 6 business fields:

- Operations of the web-based search engine (Google), video hosting and publishing site (Youtube) and free online messaging service (Gmail),
- Development and production of home automation solutions (Nest Labs): Synchronization of the wireless network with the control software of thermostats, security systems, smoke detectors, etc.,
- Research and development in biotechnology (Calico): Related to the treatment of aging and degenerative diseases,

- Artificial intelligence research (Google X),
- Investment services: Management of an investment fund for young businesses in the new technology sector (Google Ventures) and an investment fund for companies that are already developed (Google Capital),
- Operation of a fiber optic internet access network infrastructure (Google Fiber).

(20) Google is responsible for the development of algorithms and any changes made in the algorithms (such as updates, engineering, product development, etc.).

I.2. Interviews and observations made under the file

I.2.1. Interviews with third parties

(21) Interviews were held with third parties within the scope of the file, who demanded confidentiality. As a result of the negotiations, the following points were raised;

- Google's updates are not shared with the public beforehand and the updates can only be seen by looking at the traffic results of the websites,
- The update called "Mobile First Index" was the first time Google announced an update to the public before implementing it,
- Google is not expected to announce the algorithm changes in advance, because knowing them beforehand may cause the results to be manipulated,
- Some updates are made globally, and some are made local, and global updates take effect at the local level with 2-3 week delays,
- Updates as comprehensive as the Penguin update are no longer made by Google and the updates are spread out in parts throughout the year,
- It is necessary to analyze the changes in the results of the websites by using tools such as keyword tool, etc. and websites like searchmetrics, in order to detect the contents of the updates,
- There is uncertainty about the process that a site labelled as spam should follow in order to get out of this situation,
- In addition to the updates related to the algorithm, there are also manual updates made by Google and these can be more easily understood,
- The elements in algorithm updates are determined by machine learning,
- Requests can be submitted to Google through the "Search Console Help" forum about the changes that may occur in the rankings of websites, but it is unknown whether these demands will be evaluated or how long the evaluation would take,
- It is considered that a search engine that fails in organic search would not to be preferred by the end user and Google offers good quality content to the user,
- A website with decreasing traffic could see AdWords as an alternative, but it is not possible to be included in the AdWords area solely by

- allocating an advertising budget due to the quality score,
- The traffic from AdWords does not affect organic results but high-quality pages in the organic results increase the quality point in AdWords,
 - It is believed that (.....)% of Google's ad revenue comes from AdWords,
 - The main goal of algorithm updates is not to increase ad revenue from AdWords, but to increase user loyalty by improving content quality,
 - The losses of websites in rankings are not only due to algorithm updates, another factor affecting this is the investment made in for Search Engine Optimization (SEO),
 - SEO is a longer-term investment compared to AdWords and e-commerce companies may have higher click-through costs with AdWords,
 - When the first three sites are sites with advertisements, only 5 % of users enter into these sites,
 - It is a problem that almost all of the search results are advertisements, it is thought that the number of advertisements can be set to 2, besides the advertisement area can be made more noticeable and it would be beneficial to place it on the right side of the search results page as before,
 - The perception of whether the clicked area is an advertisement may vary according to the age group,
 - A large part of Google's first page depth (1366x768 pixels) is covered with AdWords and cards³ (Snippet), and organic results are pushed downwards, as a result of which the user experience is affected negatively since users do not tend to scroll down,
 - Google pulls the content in the snippets from the websites and keeps the traffic by blocking access to the website.

(22) The following points were also raised at the confidential interviews:

- There have been fluctuations in organic rankings in recent years; in exceptional cases, advertising may affect organic rankings for a short time, but this cannot be proven by any data,
- It is very difficult for an undertaking that is not included in the organic ranking to survive in commercial life without investing in AdWords,
- Generally, information is provided after the major algorithm changes, otherwise undertakings try to obtain information about the algorithm changes by following certain parameters through the forums; there is no clear approach to the announcement of the changes,
- Algorithm changes are made to increase the reliability of search results in general and this is reasonable in order to keep the consumer,

³ A description of or an excerpt from the webpage. Card types are: Rich Answer, Knowledge Graph, Rich Snippet, Featured Snippet, Paragraph Snippets, Bulleted Snippet, Numbered Snippet, Table Snippet, Youtube Featured Snippet, The Two-for-One Featured Snippet. <https://searchengineland.com/anatomy-of-a-google-snippet-38357> Accessed 25.11.2019

- Different sites are affected by the algorithm changes and search results are constantly updated,
- It is thought that providing general information about the algorithm changes would not negatively affect Google at a technical level and will have positive results for site owners; giving technical details and weights when providing information could cause manipulation, but giving certain information may avoid this,
- The reason for not providing information about algorithm changes is that undertakings may give weight to these explanations and create misleading content,
- It is difficult for an undertaking that lost ranking due to the algorithm change to rise in the rankings again,
- When the sites have misleading content, they are warned but these explanations are not sufficient with no specific reason is given,
- Panda 4.0 is an update that emphasizes content; it becomes important how long the user stays in the content; the word density in the content is looked at, that is, the number of times a word is mentioned in the text is taken into account and this density should not be excessive,
- The ad has a quality score, and the score is determined by the content used in the ad text, the length of time one stays on a site via an ad can affect the organic rankings on Google,
- DN (Display Network) corresponds to the situation where third parties advertise through Google; for example, when advertising on Youtube, the ad is clicked to close the ad, not to visit the site, and when directed to the site, the site is immediately closed, affecting the organic ranking negatively,
- The traffic from referrals (backlink) has negligible effects on the organic ranking, and after the Penguin update, it has become much more important where the reference comes from, not how many of them there are,
- When bidding in a tender, the ad text affects the quality score more than the site quality, the effect of the site quality is indirect, the ad texts written are scored differently and the one with the highest score is chosen by artificial intelligence, the most weighted effect is caused by the click-through rates, a similar algorithm operates in other advertising channels,
- Due to the fact that the advertisements had different display characteristics than the organic results in the beginning, users tended not to click on them on purpose, but in the current situation the click rate increased,
- It is not difficult for the sites to advertise, the criteria are not very high, the important factor is the bid offered at the auction,
- High cost-per-click fees affect small undertakings negatively, they do not have enough budget to get links from important authorities and this may have an impact on organic ranking,
- Some undertakings can purchase more than one site and try to keep all

of them higher in the ranking, and make it difficult for other undertakings to appear in the results in order to prevent another undertaking from advertising, and Google has no limitation in this context,

- AdWords affects small undertakings negatively, but ads give them the chance to appear on the search results page,
- On mobile devices, organic ranking and traffic are affected negatively depending on the device size, with the increase in the number of advertisements,
- From the perspective of the consumers, the recent increase in demand for ad-blockers and browsers such as Opera, which offers ad-free search, indicates that consumers do not want to see advertisements,
- The fact that third parties can advertise under different brand names, on the one hand, provides more choice to consumers, but on the other hand, it causes undertakings to allocate a larger advertising budget to their own brands.

I.2.2. Documents Obtained in the On-Site Inspection

(23) An on-site inspection was carried out at the Google Türkiye offices on 07.11.2018 within the scope of the file. Among the documents acquired during the on-site inspection, the ones to be evaluated within the scope of the file and their Turkish translations provided by the Department of Foreign Relations, Training and Competition Advocacy of the Competition Authority are below.

(24) Statements in the e-mail with the subject “(.....)” sent to the e-mail group (.....)@google.com on 03.07.2017 by the undertaking employee (.....) included in **Document 20/108** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(25) The statements in the e-mail with the subject “(.....)” sent to the e-mail group (.....)@google.com on 09.08.2017 by the undertaking employee (.....) included in **Document 20/133-134** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(26) The statements in the e-mail with the subject “(.....)” sent to the e-mail group (.....)@google.com on 19.09.2017 by the undertaking employee (.....) included in **Document 20/112,115** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(27) The statements in the e-mail sent to (.....) by the undertaking employee (.....) on 21.10.2017 included in **Document 20/150** are as follows:

(28) The statements in the e-mail and its attachment with the subject “(.....)”, sent to the e-mail group (.....)@google.com by the undertaking employee (.....) on 18.01.2018 are included in **Document 20/207-211** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(29) The statements in the e-mail with the subject “(.....)” sent to (.....), (.....), (.....) and (.....) by (.....) on 08.02.2018 included in **Document 22** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(30) The statements in the e-mail with the subject “(.....)” sent to the e-mail group (.....)@google.com by the undertaking employee (.....) on 04.04.2018 as well as the presentation in the attachment of the e-mail included in **Document 20/212-217** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(31) The statements in the e-mail with the subject “(.....)” sent to the e-mail group (.....)@google.com by (.....) on 11.04.2018 included in **Document 22** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(32) The statements in the e-mail sent by the undertaking employee (.....) to (.....) on 20.06.2018 included in **Document 20/156** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(33) The statements in the e-mail with the subject “(.....)” sent to the e-mail group (.....)@google.com by (.....) on 25.06.2018 included in **Document 22** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(34) The statements in the e-mail sent to the e-mail group (.....)@google.com by the undertaking employee (.....) on 07.08.2018 included in **Document 20/93-94** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(35) The statement in the presentation titled “*Supporting Slides*” included in **Document 20/47** is as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(36) The statements in the presentation titled “*Turkey E-commerce Market Overview*” included in **Document 20/49-50** are as follows:

(.....*TRADE SECRET*.....)

(*Turkish Translation*)

(.....*TRADE SECRET*.....)

(37) The relevant pages of the presentation titled “*Responsive Search Ads (Beta)*” included in **Document 20/77, 78 and 88** are given below, respectively:

(.....*TRADE SECRET*.....)

(*Turkish Translation*)

(.....*TRADE SECRET*.....)

(38) The statements in the document titled “(.....)” included in **Document 20/162- 163** are as follows:

(.....*TRADE SECRET*.....)

(*Turkish Translation*)

(.....*TRADE SECRET*.....)

(39) The statements in the document titled “(.....)” included in **Document 20/165-173** are as follows:

(.....*TRADE SECRET*.....)

(*Turkish Translation*)

(.....*TRADE SECRET*.....)

(40) The pages related to the presentation titled “(.....)” included in **Document 20/238,245** are as follows:

(.....TRADE SECRET.....)

(Turkish Translation)

(.....TRADE SECRET.....)

(41) The relevant pages (respectively, 49, 48, 46, 28, 26, 93) in the presentation titled “(.....)”, retrieved from the computer of the undertaking employee (.....) using the Hash method included in **Document 22** are as follows:

(.....TRADE SECRET.....)

I.3. Relevant Market

I.3.1. Information about Google’s Search and Ranking Principles

(42) It is important to understand the basic operating principle of Google with relation to the provision of general search services for the evaluation of the claims within the scope of the file and definition of the relevant product market. Accordingly, information about Google's search and ranking principles will be included, mostly taking into account the information provided by Google.

(43) Google determines the results page "simultaneously" for each user query. When a query is entered into Google by the user, Google's algorithms search Google's index for the results and rank them in the most relevant and useful way for the user.

(44) Accordingly, it is beneficial to explain the terms indexing and ranking. Indexing refers to the process by which Google indexes information about websites and certain facts about the real world. The index may be viewed as a database where Google stores information it "knows" about websites and the world.

(45) Ranking, on the other hand, refers to the process of selecting results and sorting them on the results page when a real-time query is made. Google's ranking evaluates hundreds of different signals and criteria and uses many different algorithms. The rank of a page can vary from query to query and for the same query over a period of time, depending on the (i) query, (ii) context, (iii) existing signals and (iv) interpretation of these signals by Google's algorithms. In addition, Google's machine learning systems learn from historical data and are constantly adapted to improve results. Therefore, the ranking is not statically determined with the application of an algorithm and does not remain the same way until the next algorithm change. Ranking is a dynamic and fluid process that iterates for each query and user, and it is constantly evolving.

(46) Google states that it aims to make its indexing as inclusive as possible and to update it as regularly as possible. Google also states that the scope and timeliness of the search service index are important parameters for the quality of the search service.

(47) Google states that it indexes websites through an automated process known as crawling. It is stated that software called "crawlers" or "bots" follow the links, visit the web pages and collect information from the pages to add to Google's index. It specifies that Googlebots usually scan a website every few seconds, but this can vary from site

to site and some websites are less visited by Googlebots. Google says that it determines the crawling frequency of a website according to the popularity and update speed of the website as well as its ability to respond to requests.

(48) Website owners may demand that the crawling frequency be reduced for various reasons (for example, to reduce traffic on the servers). It is also stated that website owners can partially or completely prevent their websites from being indexed, by adding instructions for Googlebots to the website's metadata⁴, through the use of a mechanism known as the Robots Exclusion Protocol.

(49) According to the information provided, Google's algorithm does not prevent or exclude websites from Google's index. Manual removal of a website from Google's index is an exceptional case. When manual de-indexing occurs, it generally occurs for a specific page or pages of a website, not the entire website.

(50) Google lists important factors for the indexing of a site as follows:

(.....TRADE SECRET.....)

(51) It is stated that the reasons why a site is not in Google's indexes may be as follows:

(.....TRADE SECRET.....)

(52) As mentioned above, if Google overlooks a site while performing a crawl, website owners can submit a sitemap of their site. This facilitates the crawling and indexing of websites. Google notes that that network administrators can use the "Fetch as Google" tool to test their sites are compatible with Googlebot and, if not, optimize them for Googlebot. Fetch as Google seems to simulate crawling, allowing network administrators to eliminate the problems. This and other tools are said to be a publicly available, free and online part of the Google Search Console, which allows sites to be crawled, indexed and ultimately included in Google's search results.

(53) Google algorithms are said to utilize hundreds of different signals to determine and rank the results of a query. The signals in question may be categorized as (i) (.....) and (ii) (.....), in general. Google notes that a result must be both relevant to the subject and of high quality for the result to be related and useful to the query. A result in this context, (.....) indicates that this result will be less related to the query. The basic working method of these signals will be explained below, in accordance with the information provided by Google below.

(.....)

(54) (.....TRADE SECRET.....)

(55) (.....TRADE SECRET.....)

⁴ Metadata is the bibliographic data used to describe the webpage content and content relationships, and it refers to the information about the webpage a website's webmaster adds to html code which cannot be seen by the users. Another intended use is to improve the resource discovery ability of search engines.

(56) (.....TRADE SECRET.....)

(57) (.....TRADE SECRET.....)

(58) (.....TRADE SECRET.....)⁵

(59) (.....TRADE SECRET.....)

(60) (.....TRADE SECRET.....)

(61) (.....TRADE SECRET.....)

(62) Google states that many signals used by its algorithms, such as page texts or link relationships, are manipulated by the websites. Websites can guess which signals Google is using and then try to "fool" Google by designing their webpages so that these algorithms see the websites as more relevant or useful than they are. According to the information in the file, a website may, for instance, purchase links from other websites; this way, they can get a better score on the (.....) signal, or they can over-optimize the text and titles of their pages to appear more up-to-date on popular queries.

(63) Google specifies that such over-optimization causes existing signals to become more irritating and less reliable over time. Therefore, Google uses and is constantly improving algorithms which (i) take into account signals to detect low-quality sites, or (ii) attempt to detect certain practices to make a site appear more relevant than it is.

(64) (.....TRADE SECRET.....)

(65) (.....TRADE SECRET.....)

(66) (.....TRADE SECRET.....)

(67) (.....TRADE SECRET.....)

(68) (.....TRADE SECRET.....)

Google's Practices on Misleading Content

(69) Google may exclude some websites from the search results partially or completely or rank them very low in the search results. These practices, which emerge in different forms and are based on different reasons, cannot be set to a certain standard, and cannot be predicted.

(70) Following the algorithm changes examined under the file, some sites may be penalized by Google for misleading content. Google penalizes websites with misleading content, that is, websites that try to appear more relevant to the search query than they are, calling these "spam practices". In detecting these websites, algorithms such as (.....) are used, in addition to the Webspam Team.

(71) Google states that it determines websites that do not comply with the rules in the Webmaster Guidelines with the help of both the algorithms and the Webspam Team, and that it treats all sites equally. According to the information in the file, websites that are found to have misleading content are not removed from the directory and search results. Google notes that, "with the exception of serious circumstances," the intervention made by the Webspam Team involves preventing sites with misleading content from appearing at the top of search results pages, rather than removing the website from the results. It is also specified that this process is not applied on all pages

⁵ These are the pieces of text that usually contain links to switch to other pages and appear in different colors/different weight/in italics or underlined in a way that shows they are different.

of the site, but only on the page with the misleading content.

(72) It is reported that if a website that received a sanction by Google due to misleading content improves its quality and terminates the practice concerned, Google's algorithms will take this into account. In addition, websites can demand that manual interventions be stopped after solving the identified problems.

(73) On the other hand, if a website is found to have misleading content, this may also affect the appearance of the site in AdWords or its performance in AdWords.

(74) Information on Google's misleading content practices and their effects was also requested from the undertakings in the sector. According to the data obtained from the undertakings, it is technically possible for a website determined to have misleading content by Google to change this situation, but there are also undertakings that were unable to get the sanctions removed and were forced to close their domain name and continue with a new domain name.

I.3.2. Relevant Product Market

(75) As known, finding a violation under Article 6 of the Act no 4054 depends on whether the undertaking is in a dominant position and whether the practice examined is an abuse. In terms of establishing dominant position, first it is necessary to define the relevant market(s) where the dominant position assessment will be made. The relevant market has two dimensions: product and geographical. When determining the relevant product market, those market(s) comprised of goods and services which are substitutable with the goods and services of the market under examination for the consumers in terms of price, intended use and characteristics are taken into account. On the other hand, the relevant geographical market(s) is defined on the basis of geographical boundaries where the competition conditions in the relevant market are homogeneous.

(76) The issue of how to define the market for multi-sided platforms is one of the most controversial discussions in competition law. It must be noted that a consensus has not yet been reached, neither in practice nor in the literature. First of all, there are discussions about how the SSNIP test applied in the classical markets should be used in these markets.⁶ On the other hand, there are opinions in the literature which propose that different market definition approaches be adopted depending on whether the market is transactional or non-transactional.⁷ However, there is also the opinion that such a distinction is not necessary when defining the market for multisided platforms.⁸ Another distinction is made according to whether the platform is a matching platform or an audience/providing/advertising platform.⁹ According to this approach, a single market should be defined for matching platforms that bring different user groups together, and multiple markets for advertising platforms. The recent report¹⁰ published

⁶ Dirk Auer and Nicolas Petit, "Two-sided markets and the Challenge of Turning Economic Theory into Antitrust Policy", p. 26 ("Two-sided markets")

⁷ Filistrucchi, L., Geradin, D., Damme E. van, and Affeldt, P. (2014), 'Market definition in two-sided markets: theory and practice', *Journal of Competition Law and Economics*, Vol. 10 (2), pp. 293-339.

⁸ Niels, G. (2019), "Transaction versus non-transaction platforms: A false dichotomy in two-sided market definition"

⁹ Sebastian Wismer and Arno Rasek, "Market definition in multi-sided markets", OECD Rethinking Antitrust Tools for Multi-sided platforms 2018, ("Market Definition"), p. 6. <http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/WD%282017%2933/FINAL&docLanguage=En>

¹⁰ Cerre-Center on Regulation in Europe, "Market Definition and Market Power in the Platform Economy",

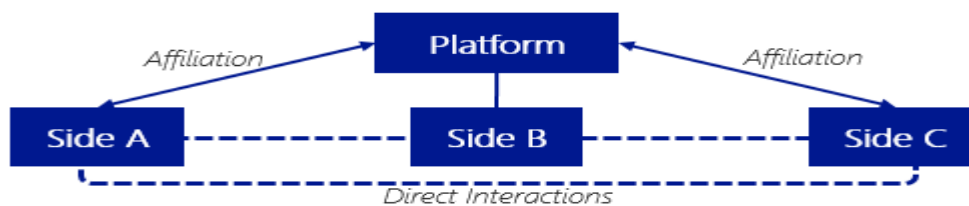
on the subject by the Center on Regulation in Europe (CERRE), discusses the single market approach and multiple markets approach, and emphasizes the advantages of adopting the multiple markets, foresees the definition of separate market the different sides of the platform.

(77) The subject matter of the file is the claim that Google complicated the activities of the undertakings by abusing its dominant position through the updates it made to its general search services and its "text ads". Accordingly, the file mainly examines whether Google gave a very large space to its own text ads at the most valuable portion of the general search results page, thereby increasing the traffic to and dependency on this area and causing organic results to gradually lose traffic, which means it abused its dominant position in the field of general search services to distort competition in the content provision services field. In that framework, general evaluations will be provided under the scope of relevant product market, first with relation to "content provision services," followed by "general search services" and "text ad services".

I.3.2.1. Market Definition for Content Provision Services

(78) Multi-sided platforms are observed to have a complex structure compared to single-sided platforms. As shown in the figure below, it is possible to reach content providers¹¹ directly using a platform, or it is possible to reach the content provider in question through another content provider. For example, a user can access an online marketplace directly using the general search service, or they can reach that marketplace through platforms that provide comparison services. Or it is possible to reach the content provider without using any intermediary platform (direct interaction).

Figure 1: General Structure of Multi-sided Platforms



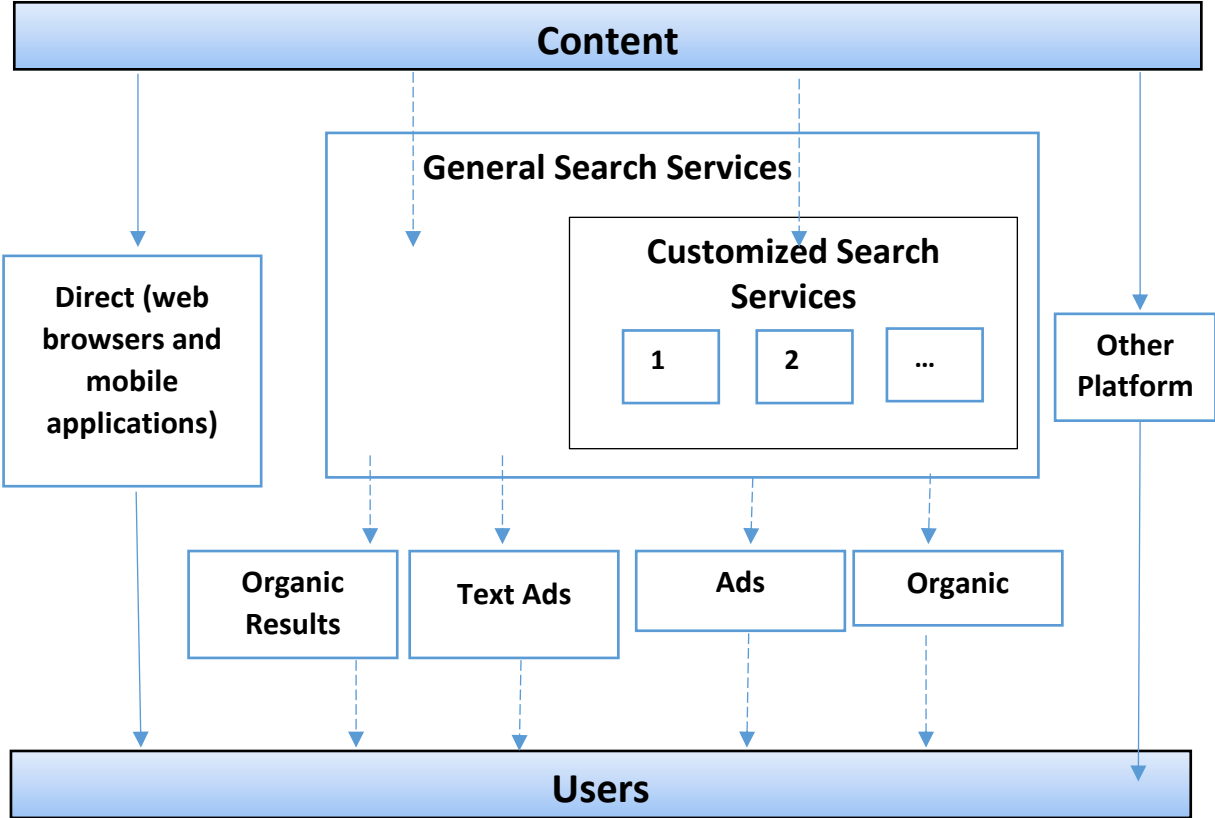
Source: https://25iq.com/2016/10/22/a-dozen-things-ive-learned-about-multi-sided-markets_platforms/, Accessed 22.11.2019

(79) The main goal of the websites is to deliver their content to the users. Figure-2 shows the methods that can be used to deliver the content in question to the user.

https://www.cerre.eu/sites/cerre/files/2019_cerre_market_definition_market_power_platform_economy.pdf Accessed 25.11.2019

¹¹ Maniadaki defines content provided as follows: "Content providers may be active in the field of content creation and/or content aggregation, providing applications to end users via internet access services and service provision (for instance, online payment platforms. They generate revenues from the content generally by direct payments of the end users or by selling ad space and/or end user data to third parties." (See "Maniadaki K. (2015), EU Competition Law, Regulation and the Internet, the Case of Net Neutrality, p. 9)

Figure 2: Delivering the Content to the User



(80) As understood from this structure, content providers can provide their content directly via web browsers and mobile applications, as well as through platforms. Content providers can create their own content, or they can provide the service in question by aggregating and/or compiling the services of other content providers. In addition to the general search service it submits, Google has also started to operate in many vertically related customized search services. Therefore, Google is basically a content provider with its general search service as well as its customized search services. Thus, Google competing with other content providers in horizontal markets in this way has given rise to competitive concerns and many authorities around the world began to examine this issue. As seen in the structure above, content providers can reach users directly through general search services or through customized search services. There are two methods of reaching the user directly through general search services. The first is organic results on the general search results page, and the other is text ads.

(81) The basic claim examined within the scope of the file is that Google creates a situation in favor of those content providers which advertise on it and complicates the activities of those websites who do not take out ads within the content services market. The content provision services market is divided into certain sub-categories (news, e-commerce, academic, etc.) according to the content provided. Since the sub-categories in the market offer different services in terms of content, they are not considered to be substitutes for each other for the users. For example, it is not possible for the user to see a website that provides news as a content service as a substitute for a website that sells clothing. However, the fact that, within the framework of the file, Google's text ads service is offered independently from the scope of any such content and does not vary according to the content type makes such a distinction unnecessary.

(82) Another issue examined under the file is whether the organic results and the advertisements, both of which are among the search results provided by the search engine providers, are substitutable for each other. As known, as a natural result of the multi-sided nature of general search services, on the one hand, consumers aim to reach the most accurate result about the words they are searching, while on the other hand, content providers act based on their need to reach more consumers, since they generate revenue over the traffic they receive on their website, which is proportionate to the traffic they get from general search. When consumers submit a query through general search services, ads taken out by content providers are first listed at the top of the search results, and these are then followed by organic results. In light of the fact that the consumers' goal is to reach the most relevant result for the query they are entered, advertisements and organic results listed in the search results may be seen as substitutes by the consumer. On the other hand, from the point of view of supply substitutability, content providers may deliver their content to users as text ads or organic results. In this context, text ads do not require the content provider's website to be designed differently as compared to the organic results. This is because websites sometimes advertise for the same page, sometimes they do not. In addition, as detailed below, websites may advertise due to loss of organic traffic, or Google documents include statements that when they advertise, this destroys organic traffic. Therefore, text ads and organic results are considered to be substitutes for each other for content providers.

(83) Based on the explanations above, since it seems impossible to fully derive the benefits expected from the further breakdown of the content provision services market under the current file, there is no need to define a separate market for each sub-category. Furthermore, text ads and organic results are considered to be substitutable for both users and websites. In this respect, it has been concluded that the relevant market affected by Google's abusive conduct in question was the "content provision services market," in a general sense.

I.3.2.2. Market Definition for Search Services

(84) Search services is the general name of the service provided by search engines, social media sites, forums, e-commerce sites, blogs and similar organizations operating on the internet, in order to provide their users with information on any subject they are looking for.

(85) The "general search services" included among the search services can be defined as the search made by the users on an internet search engine in order to reach information sources on a subject and the service they use in this context. The general search services market is a multi-sided market. On one side of the platform operated through the internet search engine are the users/consumers who submit the search and require the results of that search, while on one side of the platform are the content providers that offer content related to search on the other side. The mediation activity between the sides of the platform in the general search services market is undertaken by the search engine, which is the owner and operator of the platform. In this framework, the search engine scans and indexes the articles of content sites (wikipedia.com, onedio.com, hurriyet.com.tr etc.), sorts them according to their relevancy search interests and delivers them to the user making the search. At this point, it should be emphasized that the content the user sees in the results of the general search service when she searches for a query and the content that she sees when she enters a website are both content. What differs is the type of content. The general search results page listing the links that may be relevant to a query a user

searched on Google is a content offered provided to users by Google, and the data on the websites that users access by clicking on these links are also content. Therefore, content aggregation and content creation are included in the content provision market within the scope of the file. Moreover, Google intervenes more in the content by adding additional features (more title space, address and phone information, sub-page links, etc.) to text ads which do organic results lack, and by creating additional rules, such as ad text quality, and provides some of the content the website wants to offer to the consumer on its own site.

(86) In the general search services market, consumers act with the need to reach the most accurate result by searching through more sources/content, and content providers with the need to reach more consumers since they generate revenue from the traffic, they receive on their websites in proportion to the traffic they get from general search. This indicates that the benefit each side enjoys increases with the number of users on the other side of the platform and is known as “indirect network effects”. The magnitude and significance of indirect network effects, together with the needs and demands of the sides involved in the platform play a crucial role in the operation of the platform, and therefore in the business and pricing model adopted by the search engine. In this context, as observed in many other online platforms, in the general search services market, the user/consumer submitting the search does not pay a monetary price for the service he receives, with the search engine charging the content providers instead, in general. In terms of the current file, Google offers a general search service to users as a result of a search made by entering a word or a phrase. On the relevant results page, it includes those websites from which it received a monetary payment as well as some websites which are included without a fee.

Substitution Relationship between General Search Services and Customized Search Services

(87) When evaluating whether general search services are substitutable with customized search services offered for a specific sector (comparison shopping, local, flights, hotels, news, etc.), it is necessary to examine the scope of the service, as well as supply and demand substitution.

(88) From the viewpoint of supply-side substitution, undertakings operating in the general search services market aim to fulfill two basic functions: (i) *crawling*, (ii) *indexing*. Afterwards, the results are sorted according to the keywords in the search. Billions of lines of code must be written and run continuously in order to manage this process, whose explanation is so short and simple. While the crawling and indexing activities continue ceaselessly in the internet world, where new information is constantly being added, the goal is providing a better service to the user by changing the rankings according to user feedback. Search engines providing general search services crawl and index billions of pages of millions of websites but undertakings that provide customized search services offer a narrower service, using only the information provided by certain online retailers, online marketplaces, etc.

(89) When the subject of whether general search services and customized search services that provide service specific to a particular sector are alternatives to each other is evaluated in terms of demand substitution, it becomes clear that general search services are much more comprehensive, they index and offer more information sources, and their primary purpose is to provide access to information, and that it has quite large and heterogeneous audience in terms of content. Customized search services, on the other hand, are services that appeal to a more homogeneous

consumer group and can be used for more limited purposes. Therefore, it has been concluded that there is no substitution relationship between general search services and customized search services that provide services specific to a particular sector in terms of both supply and demand, and that these two services are not in the same relevant product market for the purposes of the current file.

Substitution Relationship between General Search Services and Social Media Sites

(90) Another channel that may be considered as an alternative to general search services is social media sites. Users mostly use social media channels to follow the feeds related to their interests or the people they want to hear from, however Facebook, in particular, has recently started to provide services in many areas such as weather forecasts, restaurant search and marketplace. However, there is no demand substitution between search services and social media sites, due to many reasons including the fact that they can only search among the content provided by their own registered users, they provide limited types of content, they offer fewer alternatives, and users visit them not instead of, but in addition to a search engine¹². In addition to this, there has been no finding under the file that concerning any social media channel offering general search services. Therefore, it has been concluded that these two fields are not in the same relevant product market for the purposes of the current file.

Substitution Relationship in Terms of the Channels Where General Search Services are Used

(91) In order to ensure coherent relevant market definition, it would be appropriate to make an assessment of the channels where general search services are used. It has become clear, under the file, that in connection with the developments in mobile technologies, mobile channels have started to see wider use in the general search services field, and that search engines started to launch both mobile and desktop versions of their service in line with these developments. However, all users ultimately reach the same content, regardless of the channel used. Therefore, since both the intended use and the service offered provided are generally the same, it was concluded that there is no need to distinguish between the service offered over mobile devices and fixed devices.

(92) In line with the points listed above, it was concluded that the relevant product market in the field of search services is "general search services".

I.3.2.3. Market Definition of the Ad Service Provided by Google to Advertisers¹³

(93) When defining the market for content services, it is stated that the content offered by Google through advertisements and/or organic results is essentially content provision services in general, and that there is no need to distinguish between advertising and organic results in this context. However, Google also provides services to websites due to the nature of multi-sided platform services. The file includes an evaluation specifically for text ads and discusses whether Google's actions related to text ads caused a competition infringement. Accordingly, the question arises as to whether the aforementioned text ads are in the same market as the other advertising services offered by Google and the advertising services offered by other platforms for the websites. At this point, it should be emphasized that the making such a market

¹² Under the scope of the file, IAB stated that Google.com, as a search engine, reaches ~95% of the internet users, based on the Turkey Internet Measurement Study, August 2019 data.

¹³ This section refers to the Board decision dated 23.03.2017 and numbered 17-11/127-56.

definition is not necessary as a condition for the results obtained within the scope of the file. On the other hand, evaluating the degree of substitutability in the market and drawing its general framework is important for the analysis of whether the websites that want to be included in the search results have the power to develop strategies that can counter Google's actions regarding text ads. In this context, general observations and findings regarding the market will be given below, without making a precise market definition.

Substitution Analysis for Online and Offline Advertising

(94) In general, advertisement services are divided into online and offline advertising, depending on the channel over which the service is offered. All advertising services offered by Google belong in the online market, and Google does not offer any advertising services in the offline market. Different advertising services previously provided by Google over different networks are being offered under a single panel with the name Google Ads¹⁴ since 24.07.2018. Thus, different types of advertisements such as search, display, video, shopping and application are provided through the same panel, with the goal of providing a more useful panel to advertisers.

(95) The first issue that needs to be examined in order to make a reliable market definition for the text ad services¹⁵ under investigation is whether online advertising services and offline advertising services are substitutable. Google/Double Click¹⁶, Viacom/Channel¹⁷, Microsoft/Yahoo Search Business¹⁸ decisions of the European Commission clearly emphasize that online and offline advertising markets are distinct markets, and this is justified by explaining that these two services are different in terms of their ability to access the target audience, as well as reporting and pricing.

(96) The target of online advertisements can be filtered according to criteria such as age, location, profession and language, and they can report in detail how many people were reached and how many interactions they received. On the other hand, with offline advertising services, the interaction rate of the advertisement is calculated based on estimated television and radio ratings, billboard sales that depend on the of vehicles passing by, and assumptions such as each newspaper sold is read by an average of three people.

(97) In terms of pricing, online advertisements allow the advertisers to spend their advertising budget in the most efficient way possible, since online advertising is based on clearer information, and it uses methods like real time bidding. It is assumed that there is no substitution relationship between these two services in terms of pricing and operation, due to the fact that the number of interactions of offline advertising services is not known exactly and the proposals of other advertisers cannot be predicted by advertisers.

(98) On the other hand, the online advertising field does not consist of homogeneous products and services. Although advertisements taken out on search engines are

¹⁴ <https://ads.google.com/> Accessed 25.11.2019

¹⁵ <https://support.google.com/google-ads/answer/2472712?hl=tr> Accessed 25.11.2019

¹⁶ http://ec.europa.eu/competition/mergers/cases/decisions/m4731_20080311_20682_en.pdf
Accessed 25.11.2019

¹⁷

http://ec.europa.eu/competition/mergers/cases/decisions/m7288_20140909_20310_3881848_EN.pdf
Accessed 25.11.2019

¹⁸ http://ec.europa.eu/competition/mergers/cases/decisions/M5727_20100218_20310_261202_EN.pdf
Accessed 25.11.2019

lumped together with advertisements placed on websites and with social media advertisements in the online (digital) advertisements group, this does not show that the different advertising channels are the same in terms of demand substitution. For the advertiser, the world of online advertising is like a big river divided into small branches, each of which fulfills different purposes and appeals to very different internet user profiles. In fact, recently, these branches have been dividing within themselves, and as such, the field of online advertising brings up numerous advertising possibilities.

(99) It is important to examine the types of online advertising closely in order to better understand online advertising. However, it should be noted that there is no single classification, but different breakdowns are made in different sources. In its Google/DoubleClick Decision of 2008, the Commission categorized online advertising according to three different variables. The first of these is the selection mechanism for how the ad will appear on the user screen (search-based, non-search-based and classified advertising), the second is the format of the ad (text, graphs and rich media), the third is the distribution channel (direct and indirect sales). In the Commission's Microsoft/Yahoo decision, online advertising is divided into four categories depending on format (text, image), device used, pricing mechanism and selection mechanism. Online advertising classification on another source includes search-based advertising, display advertising, classified advertising and e-mail advertising.¹⁹

(100) Nonetheless, online advertising channels may be divided into two groups: search engine providers (on search-based advertising) channel and content providers (non-search-based advertising) channel. Search-based online advertising involves displaying ads related to the search submitted by users to the search engines on the search results page, while non-search-based advertising can be defined as those advertisements that users encounter when they visit a website, watch a video, play a game or through e-mail. In other words, the search engine providers channel allows advertisers to reach internet users looking for something; on the other hand, the content providers channel allows advertisers to reach the visitors of their websites. Information on the substitutability relationship between these two types of advertising is given below.

Substitution Analysis for Search-Based and Non-Search-Based Advertising

(101) Advertisers use search-based and non-search-based advertising for different general purposes²⁰ and with different sale models²¹. Therefore, another issue that should be examined within the scope of the file is whether search-based ads and non-search-based ads are substitutable.

(102) In this context, information was requested from various websites operating in the sector which receive small-, medium-, and large-scale traffic from Google on whether non-search-based online advertisements substitutable for search-based advertisements, especially with regards to Google AdWords ads.

(103) (.....) and (.....) stated that search-based and non-search-based ad types are not considered as substitutes for each other. In this context, the following points are raised in the evaluations of the aforementioned websites and related institutions on the

¹⁹ AKSAKAL Emircan (2019), Çevrim İçi Reklamcılıkta Pazar Tanımı ve Muhtemel Rekabetçi Endişeler, Competition Authority, Competition Expert Thesis, Ankara, p.5.

²⁰ <https://neilpatel.com/blog/display-ads-versus-search-ads/> Accessed 25.11.2019

²¹ <https://www.verticalmeasures.com/blog/ppc-advertising/search-vs-display-advertising-in-2017/> Accessed 25.11.2019

subject:

- The main difference between search-based advertising and other advertising channels is the fact that, in search-based advertising, users are looking for something directly and they are active in search-based advertising sites for a purpose, i.e. with an incentive to make a purchase. On the other hand, with regards to other advertisements, users are less likely to be interested in the ads they encounter in the channels they are visiting with another purpose (checking their friends' photos, reading a news item, or researching a subject). Therefore, conversion and click-through rates of search-based ads are much higher than those of non-search-based ads.
- Search-based ads perform very well for ads as a result of which advertisers expect a certain action to be taken (purchasing something, filling a form, reading the contents of the website, etc.). If the aim of the advertiser is to reach more users and increase brand awareness, channels other than search-based ads may be used.
- Non-search-based ads mostly aim to remind of the brand (push strategy) while search-based ads focus more on trying to show the most relevant results depending on the content the audience is interested in (pull strategy),
- With search-based advertising, the advertiser reaches the consumer for the service or product of interest exactly when they need it. As a result, the advertiser enjoys the results and returns from the search-based advertisements immediately; on the other hand, it may take longer for non-search-based ads to receive results, and sometimes this is impossible to measure,
- Targeted advertising can be done through search engines. Search-based advertising has very positive aspects compared to other types of advertising since the conversion rate may be viewed instantly, they are easier to monitor and easier to control in terms of advertising expenditures,
- Ads on search engines usually consist of just text (an explanatory text, a link to click on, and an address or phone number, depending on what options the search engine offers, etc.). On the other hand, display advertising offers advertisers various options such as different sizes and formats, images and video, as a result of which it creates much more opportunities to attract the attention of potential customers,
- Pricing occurs per click in search-based advertising and is determined instantly. Pricing of non-search-based ads may be based on clicks or views and may be determined instantly or beforehand. Thus, fixed pricing independent of competition may be applied,
- Search-based ads cost less than non-search-based ads in terms of cost-per-click.

(104) (.....) and (.....) stated that search-based and non-search-based advertisements are seen as substitutes for each other. In general, the following points are raised in the observations of these websites on the subject:

- Companies have the opportunity to reach the users via both types of advertisement; advertisers generally use these advertising channels alternately; therefore, there is a high degree of substitutability between them,
- Advertisers are increasingly switching between search-based and display advertising (such as that offered by Facebook) to achieve the same goals; the personalization tools available for advertisers are similar for both search-based and display ads,
- Both types of ads provide advanced user targeting and performance measurement; they are based on automated bidding systems and mostly use image-oriented content,
- Search-based advertising and display advertising are converging, but while by search-based ad providers adopt retargeting, display ad providers prefer adopting automated bidding systems; the use of images is increasing in search-based ads and traditional search-based players are developing display ad delivery systems.

(105) Meanwhile, (.....) and (.....) state that search-based ads and non-search-based ads may be seen as a substitutable on the one hand, but not as substitutable on the other. The following points are raised in the observations of the websites concerned on the subject:

- Search-based ads target users searching for a specific term, while the presence of users who are simultaneously actively searching and shopping for a particular product is generally not assumed for non-search-based ads; however, the factors determining the price are the same for search-based and non-search-based ads since pricing is generally related to the advertiser's willingness to pay,
- The advertising products offered by Google can be used for different purposes; search-based ad models can be used to create brand awareness for the relevant user, and these models can also be used in sale-oriented campaigns.

(106) In this framework, a significant 84% of the aforementioned websites and representatives in the sector do not consider search-based advertisements and non-search-based advertisements as substitutable, while 6% does consider these two types of advertisements as substitutes for each other.²²

(107) The opinions of the parties in question show that it is easier for the advertisers to reach the right target audience in search-based advertising where users directly search for what they need; however, the user's has less interest in the ads with non-search-based advertising since they encounter the ads in a channel they are visiting for another purpose (watching videos, reading content, etc.); in that context, search-based ads are superior to non-search-based ads in terms of click-through and shopping conversion rates.

²² Within the scope of the file İlab Holding was taken into consideration for the analyses conducted with relation to the websites arabam.com, cimri.com, emlakjet.com, kariyer.net, sigortam.net, neredekal.com, hangikredi.com, chemorbis.com and steelorbis.com; Otokoç with relation to the websites avis.com, otokoç.com and budget.com; Ets Tur with relation to the websites etstur.com and ucuzabilet.com; D&R with relation to dr.com and idefix.com.

(108) Within this framework, text ads examined under the file are currently used for a marketing approach that aims to attract an audience already looking to buy a product or service through the use of search engines (pull approach), while display advertising is seen as a marketing strategy that directs an audience visiting different online channels for different purposes to somewhere else (push approach). Therefore, search-based advertising ensures that user traffic is channeled to the website directly, and thus its purpose is to attract traffic and make sales. On the other hand, non-search-based advertisements are mostly used to create brand awareness and make announcements.

(109) Another issue that should be emphasized in terms of the substitution relationship concerns the payment method of the advertisers. In search-based advertising, advertisers make per click payments (Cost Per Click - CPC), but the payment in non-search-based ads can vary between per click and per view (Cost Per Mille - CPM), depending on the type of ad.²³ Besides, the fact that advertisers can only pay per click in search-based ads supports the fact that search-based ads are an important tool to drive traffic to the website. In addition, the responses received from the websites note that the costs per sale varies between the two types of advertisements, with the cost per sale ending up lower for search-based advertisements.

(110) On the other hand, the average click-through rates (CTR) and conversion rates (CR) of these two types of online ads may differ. Some sources²⁴ note that the average click-through rate of search-based advertising on a sector-by-sector basis is at least six times higher than the click-through rate of display ads. In light of the importance of the topmost ad in search results for driving traffic, these rates can be expected to be much higher for the topmost ads.

(111) Websites' annual shopping conversion rates from search-based and non-search-based advertisements are included in the tables below

²³ Google/DoubleClick, 11.03.2008, File No COMP/M.4731, p. 8, Microsoft/ Yahoo! Search Business, 18.02.2010, Dosya No COMP/M.5727, s. 7.

²⁴ <https://www.wordstream.com/blog/ws/2016/02/29/google-AdWords-industry-benchmarks>, Accessed 28.11.2019

Table 2: Conversion Rates of Websites from Search-Based Text Ads (%)

Year	Undertakings																						
	Yemek Sepeti	Trendyol	Setur	N11	Morhipo	LC Waikiki	Çiçek Sepeti	Çiçek Market	Gitti Gidiyor	Boyner	D&R	Hepsi Burada	En uygun	Pegasus	Defacto	Abiyelerim	Sakal baba	Sefa merve	Amazon	Evidea	Cimri	Emlak jet	Neredekal
2011	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2012	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2013	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2014	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2015	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2016	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2017	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2018	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2019	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

Source: Information acquired from the undertakings

Table 3: Conversion Rates of Websites from Other Search-Based Ads (%)²⁵

Year	Undertakings															
	Trendyol	N11	Morhipo	LC Waikiki	Çiçek Sepeti	Gittigidiyor	Boyner	D&R	Hepsiburada	En Uygun	Pegasus	Defacto	Abiyelerim	Sefamerve	Amazon	Evidea
2011	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2012	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2013	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2014	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2015	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2016	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2017	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2018	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2019	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

Source: Information acquired from the undertakings

²⁵ (.....)

Table 4: Conversion Rates of Websites from Non-Search-Based Ads (%)

Year	Undertakings																			
	Yemek Sepeti		Trendyol				Setur				N11				LC Waikiki			D&R		
	Social Media	Ads from Other Websites (individual, display/banner, natural ads, etc.)	Google Display Network (GDN) ²⁶	Other Price Comparison Websites	Social Media	Ad Traffic from Other Websites (individual, display/banner, natural ads, etc.)	Social Media	Display ²⁷	Refere	Other	Retargeting ²⁸	Sosyal Medya	Affiliate ²⁹	Other Price Comparison Websites	GDN	Social Media	Other	GDN	Remarketing ³⁰	GDN
2011	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2012	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2013	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2014	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2015	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2016	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2017	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2018	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2019	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

Source: Information acquired from the undertakings

²⁶ Google display ad network covers all display ads provided through Google.

²⁷ Consists of ads on websites which include images.

²⁸ Retargeting is when advertisers show ads to a user related to a subject, product or service s/he was interested before, based on a previous visit or action. In addition to Google, third party online ad providers such as Criteo and RTB are also active in this space.

²⁹ An ad channel dependent on affiliate marketing which is only paid when there is a sale. This ad channel allows the seller to eliminate ad and marketing costs, while the sales affiliate receives income from the sale of the product it helped sell.

³⁰ Remarketing involves displaying ads targeted to those consumers who are interested in the products of a brand or who have used its products before, and it includes retargeting as well. Ads sent via e-mail may be given as an example.

Table 5: Conversion Rates of Websites from Other Sources of Traffic (%)

Year	Undertakings																							
	Çiçek Sepeti				Çiçek Market	Gittigidiyor						Boyner							Hepsiburada					
	Social Media	Affiliate	GDN	Display	GDN	Remarketing	Facebook	OCS	Display	Google Display	Affiliate	Affiliate	Display	Retargeting	Social Media	E-mail	GDN	Other	Affiliate	Social Media	Comparison Shopping	Display	E-mail	
2011	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2012	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2013	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2014	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2015	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2016	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2017	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2018	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
2019	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	

Source: Information acquired from the undertakings

Table 6: Conversion Rates of Websites from Other Sources of Traffic (%)

Year	Undertakings																			
	Pegasus		Defacto		Sefamerve			Amazon	Sakalbaba	Evidea	Cimri				Morhipo					Neredekal
	Display	GDN	Social Media	Retargeting	Affiliate	Retargeting	Display			Display	Facebook	RTB	Criteo	E-mail	Other Comparison Shopping Sites	Social Media	Display	Remarketing	GDN	Criteo
2011	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2012	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2013	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2014	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2015	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2016	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2017	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2018	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
2019	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

Resource: Information acquired from the undertakings

(112) As it can be observed from the tables given above, web sites obtain higher conversion rates (product sales, reservation, etc.) from searched ads compared to non-search ads. Accordingly, it is concluded that the said two advertisement types have different functions and those advertisement types are complementary for advertisers rather than substitutes. Moreover, foreign competition authorities³¹ have generally emphasized that the said two advertisement types are not substitutes for each other.

(113) As a result, although there are opinions³² – even a few – that search ads and non-search ads are close to each other, within the framework of the evaluations made depending on the information obtained from the sector as well as the decisions and analysis made by several authorities, the said two advertisement types are not substitutes for each other at present.

Substitution Analysis Related for Search Advertising Offered By Google and Search Advertising Offered By Other Search Engines

(114) Another issue analyzed under the scope of the file is whether the search advertising channel offered by other search engines is a substitute for search advertising services offered by Google. Search engines such as Yandex, Bing, Yahoo and Yaani are the main competitors of Google in general search services market in Turkey. According to the information obtained within the scope of the file, Yahoo does not carry out activities in the area of search advertising in Turkey. In addition, Bing, which started to offer text ad services in the year (.....) in (month), stated that there are two firms that used that service and (.....)% of their revenues was obtained from (.....) group companies. Therefore, Bing was not taken into account for the assessment, as its activities in the area of text ads are negligible. Yandex started to offer text ad services in Turkey in 2012. The table below shows annual traffic volume of Google and Yandex from text ads as of 2012:

Table 7: Google’s and Yandex’s Traffic Volume for Text Ads

Year	Search Engines	
	Yandex	Google
2012	(.....)	(.....)
2013	(.....)	(.....)
2014	(.....)	(.....)
2015	(.....)	(.....)
2016	(.....)	(.....)
2017	(.....)	(.....)
2018	(.....)	(.....)
2019 ³³	(.....)	(.....)
Source: Information acquired from undertakings		

³¹ See FTC decision dated 20.12.2007 and numbered 071-0170, Digital platforms inquiry final report, 2019, <https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report>, Commission decision dated 03.10.2014 and numbered COMP/M.7217, Commission decisions dated 11.03.2008 and numbered COMP/M.4731 and dated 18.02.2010 and numbered COMP/M.5727

³² Australian Competition and Consumer Commission’s digital platforms inquiry final report, 2019, <https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report> states that that there may have been a degree of convergence between display and search advertising over the past 15 years.

³³ The information for 2019 covers the data up to July.

(115) As it is seen in the table, Google's traffic volume from text ads is much higher from that of Yandex.

(116) In addition, other relevant websites and other sector representatives were requested information about whether search advertising channel offered by other search engines is a substitute for the search advertising services offered by Google. (.....) and (.....) Turkey stated that the said advertisement channels are not substitutes for each other. Within this framework, the said web sites and relevant institutions made the following comments in general:

- Google offers more sophisticated features with respect to service quality compared to close advertisement campaigns (such as Yandex) because it offers many alternative applicable advertisement models, it is user friendly and is advantageous with respect to reporting tools; thus, it is not seen as a substitute in terms of service quality.
- Google provides richer search results of higher quality compared to its competitors and is constantly developing its service,
- Although search ads offered by search engines may vary depending on cost per click, the fundamentals of advertisement pricing is largely similar,
- Only Yandex can be regarded as an example for a search engine that is similar and comparable to Google with respect to advertisement services, however Yandex is not widely used in Turkey so its traffic volume from search engine ads is low,
- Google's market share as a search engine is over 90%, when Google AdWords advertisement service is compared to other search advertising channels, users prefer Google in searches by considerable odds, consequently, Google gains important advantages over other search advertising channels due to its market position and recognition because of this websites prefer Google.

(117) Moreover, all of the said websites and sector representatives stated that Google is the market leader in Turkey as a search engine; its competitors in this area are not widespread enough. Users prefer Google more, so advertisers gain more traffic from that channel due to double-sided market structure. In addition, compared to other search engine ads, the services provided to advertisers are more qualified. As a result, advertisement services provided by other search engines are not seen as substitutes for Google's advertisement services.

(118) Although websites state that the said ads are not substitutes for each other because users prefer Google more and Google is better with respect to service quality, those two advertisement types are similar in terms of their functions. If websites give ads to both search engines, a text related to the advertised keyword can appear at the upper rank of organic results. Moreover, text ad services offered by other search engines and Google are similar in bidding method and determination of costs per click. In line with this, it is concluded that search advertising services are substitutes for Google's search advertising services in terms of functioning.

Substitution Analysis for Ads offered by Google's Vertically Integrated Services and Text Ads

(119) After mentioning the differences of search advertising and non-search advertising, another point examined under the scope of the file is whether there is

substitutability between text ads and ads provided by the services vertically related to Google's general search services (comparison shopping, flight search and hotel search, etc.).

(120) To this end, websites were requested information operating in the sector whether they see text ad services provided by Google as a substitute for other search advertising channels including Google Shopping and Google's other ad products. The websites are classified as small, medium and large sized websites according to the traffic volume obtained from Google. (.....) stated that they see Google's ad products as substitutes for each other. In general, the said websites' evaluations are as follows:

- The text ads provided by Google and Google Shopping are search based and they provide services according to users' intent. Thus the two advertisement services can be seen as substitutes.
- If the aim is to provide traffic from a word group and the cost per click is high due to the competition in the search advertisements in this word group, the other may be preferred in such cases.
- Both advertisement types are tools to attract traffic or increase sales for websites.

(121) (.....) stated that Google's advertisement products are not regarded as substitutes. Within this framework the said websites' and relevant institutions' evaluations are as follows:

- The ads in the Google Shopping area have visuals and price information, which are the basic elements that determine buyers' purchasing preferences. Therefore, the visitors going to a website by using that area are more aware compared to potential buyers coming from other search channels.
- The users of Google text ads generally reach a wider content including all products/contents related to the searched word after clicking, whereas Google Shopping has the possibility to direct users to the product directly.
- Google Shopping ads are used for shopping/aim as they have price and visual content so it is possible to have more conversion rate from the said ads compared to text ads.
- Google Shopping is displayed at the top of the page loaded compared to other search results (Google text ads, organic search), as a result of which products are differentiated with respect to consumers and the perceived value of the website. As internet users have a tendency to click the results at the upper ranks on Google result page, Google Shopping results that appear on top have a special feature.
- In Google text ads, the keywords where ads will be displayed are determined by the advertiser for searches through Google. In Google Shopping ads it is not possible to interfere directly to with which keywords searched the ads will be displayed.
- Google AdWords ads can be used in limited time communication. For instance, if there is a special discount in bags for two days and the advertiser wants to announce it in a short time or wants to show this communication in Google search for bags, they can give text ads and

monitor clicks by means of going above organic results with a title “Special Discount in Bags for 2 Days”. This method also is a point where text ads are different from advertisers’ viewpoint.

- In specific product searches (for instance “x brand white shirt”) Google Shopping ads may be a substitute for text ads in part. However, in general searches (for instance “websites for clothes on sale”) it is unlikely that Google Shopping ads will appear, as the product is not specified, therefore, in such searches text ads are on the forefront.
- Google text ads show ad results directly according to the service or product the user is searching. Google Hotel Ads, which is a special product for the tourism sector, similar to Google Shopping, and other Google products reach the customer in a horizontal way. Their search traffic is lower.

(122) (.....) stated that it is possible to regard Google ad products as a substitute from one aspect but at the same time it is not possible to regard them as a substitute from another aspect. In general, the said websites’ evaluations are as follows:

- Although Google Shopping advertising model is sales oriented, the advertisement model with the best conversion rate with respect to conveying the ad messages that the brands are trying to give to the customer and meeting company targets is text ads. Consequently, both advertisement types can be preferred.
- Google text ads and other search advertising channels can be seen as substitutes for each other as they are used for sales purposes. As users are directed towards the website by displaying relevant advertisements, search ads are not different from the perspective of users. On the other hand, the basic difference of Google Shopping from other search advertisements is that while Google search ads and other search ads direct users to more general pages, Google Shopping direct users to the product directly and a closer point to sale.

(123) In light of those evaluations, 64% of the websites and sector representatives said that they do not see ad services provided by Google’s vertically integrated services and text ads as substitutes. 21% said that they see the said ad types as substitutes.

(124) The vertical services so called specialized search services address different aims and groups. With respect to the said vertical services, the results that the websites demanding such services wish to get on the supply side, and the results that the users on the demand side making a search wish to get are different. The differences in the way of displaying, ranking and pricing of those products by Google lead to a differentiation between each of those areas.

(125) The answers of the undertakings operating in the sector show that after users make a search they can reach directly the specific product or service they are searching through the ads provided by means of vertically integrated services whereas they can reach a wider content through text ads. Moreover, sector representatives emphasize that the said advertisement types determine the target consumer better so it is possible to have higher shopping conversion rates compared to text ads.

(126) Shopping, which is one of the most important advertisement channels for

websites offering e-trade services, will be addressed separately. In Commission's Shopping decision³⁴ those services are separated and comparison shopping is regarded as a different market.

(127) Firstly, Google provides a comparison service with its Shopping Units by showing more than one offer together. Text ads do not have such function. In addition Shopping, which is also called product ads, generally shows a seller's product offers together with the text and visuals. They are published in a separate box in partner websites beside the search results. In text ads, advertisers give advertisements to certain words to be displayed in Google search result page.

(128) In text ads, advertisers choose the keywords where the advertisements will be displayed. In Shopping, advertisers cannot interfere directly to the keywords used in searches where the advertisements will be displayed. Google automatically chooses the keywords where the ads will be displayed according to the titles and explanations in products. Shopping has visual and price information related to the product searched and this affects purchasing preferences of potential consumers. Therefore, users can look at the products they are searching directly, thus they are closer to shopping. Accordingly, the rate of conversion to shopping is higher compared to text ads. Comparison between Table 2 and Table 3 shows that the rates of conversion to shopping the websites have from vertical search services (Google Shopping and Google Hotel Ads) are higher. This supports the abovementioned issue. In line with the information given, it is concluded that product and text ad services provided by Google to advertisers have different features.

(129) Within the scope of the findings given above, it is concluded that text ads provided by Google and its competitors are different from both other search advertising types and non-search advertising types.

I.3.3 Relevant Geographic Market

(130) The relevant product markets and activities examined within the scope of the file does not differ among geographic regions, therefore, the relevant geographic market is defined as "Turkey".

I.4. Assessment

I.4.1. Dominant Position Assessment

(131) As stated above, the investigation assesses whether Google violated article 6 of the Act no 4054 by means of its practices that are the subject of the file. It is necessary to examine first whether the undertaking concerned holds a dominant position in an assessment within the scope of article 6 of the Act no 4054.

(132) While making a dominant position analysis, to what extent the undertaking concerned can act independently of competitive pressures is examined. In the Guidelines on the Assessment of Exclusionary Abusive Conduct by Undertakings With Dominant Position, it is stated that

- Market positions of the undertaking examined and its competitors
- Barriers to entry and expansion
- Buyer power

³⁴ Google Shopping Case, 27.06.2017, File No: Case At.39740, page 31, 32.

should be considered in order to detect to what extent the undertaking concerned can act independently of competitive pressures. Specific conditions of each case should also be taken into account.

(133) Within this framework, observations and evaluations concerning whether Google is dominant in the relevant market are given below.

I.4.1.1. Dominant Position Analysis in General Search Services Market Market Positions of the Undertaking Examined and Its Competitors

(134) In general search services market, the main competitors of Google in Turkey are Yandex, Bing and Yahoo. Other competitors' market shares are relatively very low.

(135) The most important indicator used in the detection of market power in a certain market in competition law analysis is the market share of the undertaking examined and its competitors. According to the Guidelines, the established practice of the Board, in the absence of any indication to the contrary, is to accept that undertakings holding less than 40% of the market share are less likely to be dominant, and more detailed examinations are conducted for undertakings with a higher market share.

(136) As seen from the table below, according to user data, Google's market share did not fall below 94.5% in the last five years. The difference between Google and its closest competitor has always been more than 85%. In addition, Google has maintained the said powerful position in the market for a long time. In addition, Google is default in mobile phones with Android operating system and mobile platform is being preferred more and more for internet use, which shows that it is not easy to change the situation in the market in the long run.

Table 8: Market shares of search engines in Turkey according to usage rate

Search engine	Market shares in general search services market (%)						
	2013	2014	2015	2016	2017	2018	2019 ³⁵
Google	96.4	95.8	96.8	97.4	97.2	95.9	92.3
Yandex	2.0	2.5	2.3	2.1	2.3	3.3	6.4
Bing	0.9	1.1	0.5	0.3	0.2	0.2	0.3
Yahoo	0.2	0.4	0.2	0.2	0.2	0.4	0.7
Others	0.5	0.2	0.2	0.3	0.1	0.2	0.3

Source: Statcounter³⁶

(137) On the other hand, it is said that in fast growing markets characterized by short innovation circles, market shares are nondurable and do not indicate dominant position alone.³⁷ Especially in dynamic online markets, although there are opinions that dominant position analysis should not depend on a quantitative criterion such as market share alone; those market shares can be taken as a basis if they last for a long time.³⁸ Although it may be argued that general search services market has a dynamic nature, Google's power has been stable for long years and there have not been fluctuations in the market. Moreover, Google carries out activities in more than one interrelated market, which strengthens its position in the market.

³⁵ The data covers 2019 January-October period.

³⁶ <https://gs.statcounter.com/search-engine-market-share/all/turkey/#yearly-2013-2019> Accessed 20.11.2019

³⁷ Case T-79/12, Cisco Systems, Inc. and Messagenet SpA v Commission, 2013, para. 69.

³⁸ Gönenç GÜRKAYNAK, Derya DURLU GÜRZUMAR, İnternetin Ezber Bozan Ortamında ve Yenilikçi Dijital Pazarlarda Rekabet Hukuku Eğilimleri, Rekabet Dergisi, 2015, 16(2): 43-111, p. 55.

Barriers to Entry and Expansion

(138) As stated above, barriers to entry and expansion are important in dominant position analysis. There may be barriers to potential competitors' access to the market or actual competitors' expansion. Considerable capital investments, network externalities that require additional costs to attract customers, economies of scale or de facto barriers to entry can fall under this scope.

(139) With respect to Google's general search service, establishment of a general search engine that can work functionally requires considerable investments with respect to time and capital. Developing an algorithm to enter the general search service market and maintaining it requires very high fixed costs. The two important sources for this fixed cost are defined as follows: considerable expenses for protecting and continuously developing the quality of search activities and advertising; installing search engines with an important server infrastructure and operating them in order to operate a search engine that is sensitive to user demand. Moreover, investments for personnel and equipment are also an important factor. Lastly, general search service requires continuous investments by nature. A new entry is expected to be able to do that.

(140) Second, search data are used to improve relevancy of the results in general search services. In other words, an undertaking providing general search services should have a certain amount of query volume in order to compete. Undertakings providing general search services can detect user preferences, and update and improve relevance when the number of queries increases. Moreover, it is more important for long tail keywords. It is known that Google is a monopoly in this area with respect to the data it holds³⁹.

(141) Third, the multisided structure formed by general search services and online search advertising creates a positive feedback loop. The more the number of users to whom general search services are provided increases it is more likely that the advertisement on the search result page reaches the user and converts to sale. This seems attractive for the advertisers. More advertisers want to become the customer of the undertaking providing general search services.

(142) It is stated in the European Commission's Google Shopping decision, paragraphs 301-304 that undertakings that have newly started to operate in general search services cannot reach significant amount of market power. Most of those undertakings either terminate providing general search services or direct towards complementary fields that do not compete with Google's general search services. It is also stated that Duck Duck Go⁴⁰, which has been providing services since 2010 and only in English, has not obtained a considerable amount of shares in the market yet. Even large undertakings such as Bing and Yahoo have difficulty in competing with Google. In line with this, it is clear that there are serious barriers to entry; besides, existing undertakings cannot make competitive pressures despite their technology and capital.

(143) In summary, taking into account important network effects stemming from the

³⁹ Data Monopolists Like Google Are Threatening the Economy, 02.03.2015, <https://hbr.org/2015/03/data-monopolists-like-google-are-threatening-the-economy>, Accessed 18.11.2019.

⁴⁰ Duck Duck Go is different from other search engines as it attaches more importance to user data security, does not collect user data or sell data.

fact that general search services are a multilateral platform, user habits, brand recognition and Google's capital size, it is understood that barriers to entry in general search services market are higher compared to other markets.

Buyer Power

(144) Another point to be analyzed in dominant position analysis is buyer power. If the customers of the undertaking analyzed are relatively a large group, are informed enough about alternative sources of supply and have the ability to switch to another supplier or create their own supply in a reasonable time, it means that the buyers have bargaining power in other words buyer power.

(145) Search results provided by Google, comparison shopping and similar products do not address one or more large buyers but the number of searches made through Google amounts to billions daily⁴¹. Therefore, it is not possible to talk about buyer power on the consumer side. On the other hand, since users prefer Google as they see it as the only source, advertisers or content providers who want to reach users through Google cannot have buyer power vis à vis Google. As a result, finally, the demand of all sides of the market feeds other sides' demand, which increases Google's power more.

(146) As a result of the evaluations and observations made, it is concluded that Google is dominant in general search services market.

(147) Even if there are indications of global economic recession, the performance of advertising sector is above the general economic performance. Especially, digital advertising is constantly growing and expenses for digital advertising are increasing. There are observations that in countries such as England, China, Norway and Canada, digital advertising is the dominant tool of advertising. It is estimated that more than half of the advertising expenses will be directed to digital in US and Holland and half of Russia's advertising expenses will be made in digital channels. With respect to less developed countries, more time is needed to reach such point.⁴²

(148) It is known that one of the most important players in the growing digital advertising sector is Google. In 2018, Google is in the first place as a digital advertisement seller. It is estimated that Google will protect its position in 2019⁴³.

(149) The situation is similar in digital advertisement sector in Turkey. Digital advertising investments increased by 14.2% in 2018 compared to 2017. Moreover, it is stated that there was a 13% growth in text ads -so called paid ranking investments- compared to 2017.⁴⁴ On the other hand, according to the information and documents obtained from third persons, since 2013, investments to digital advertising and search engines have been increasing. Although the said observations and evaluations are calculated by estimation, they are important as they show the growth of digital advertising.

(150) On the other hand, digital advertising activities have a tendency to increase

⁴¹ Google Search Statistics, <http://www.internetlivestats.com/google-search-statistics/>, Accessed 25.11.2019

⁴² ("Global Digital Ad Spendig 2019")

<https://www.emarketer.com/content/global-digital-ad-spending-2019>, Accessed 18.11.2019.

⁴³ ("Global Digital Ad Spendig 2019")

<https://www.emarketer.com/content/global-digital-ad-spending-2019>, Accessed 18.11.2019.

⁴⁴ IAB Turkey, 2018 Dijital Reklam Yatırımları Açıklandı, <https://www.iabturkiye.org/2018-dijital-reklam-yatirimlari-aciklandi>, Accessed 18.11.2019

among investments to media and advertising in Turkey. According to the Report on Estimated Media and Advertisement Investments in Turkey⁴⁵, which is prepared by Turkish Advertisers' Association by giving the responsibility of integrating data to Deloitte, the share of online advertisements in all advertising activities is 28.9% in 2018 and this share increased by 14.8% compared to 2017. The share of search engine category⁴⁶ in investments made to online advertisements is 38%.⁴⁷ It is seen from the reports that online advertising and advertisement services provided by search engines have been increasing constantly.

(151) The undertakings who provide general search services together with text ad services are Google, Yandex and Yaani. According to the information given by Yaani, they started to provide the service in (.....), their revenues from providing text ad services are negligible and (.....)% of these revenues is obtained from (.....) group company. Accordingly, Yaani's presence in the market does not create effects and is negligible. According to the information given by Microsoft, Bing does not provide text ad services. Similarly other undertakings providing general search services in Turkey does not carry out activities related to text ads.

(152) The table below shows the number of clicks on text ads in Google's general results page and the amount of redirections by Yandex from its text ad service to other websites for the period 2011-2019.

Table 9: The Amount of Clicks on Undertakings' Text Ads

Month	Clicks on text ads on Google general results page in Turkey	Clicks on text ads on Yandex general results page in Turkey	Total clicks on text ads on search engines' results page in Turkey
Jan.11	(.....)	(.....)	(.....)
Feb.11	(.....)	(.....)	(.....)
Mar.11	(.....)	(.....)	(.....)
Apr.11	(.....)	(.....)	(.....)
May11	(.....)	(.....)	(.....)
June11	(.....)	(.....)	(.....)
July11	(.....)	(.....)	(.....)
Agu11	(.....)	(.....)	(.....)
Sep.11	(.....)	(.....)	(.....)
Oct.11	(.....)	(.....)	(.....)
Nov.11	(.....)	(.....)	(.....)
Dec.11	(.....)	(.....)	(.....)
Jan.12	(.....)	(.....)	(.....)
Feb.12	(.....)	(.....)	(.....)
Mar.12	(.....)	(.....)	(.....)
Apr.12	(.....)	(.....)	(.....)

⁴⁵ Source: Advertisers Association, Deloitte analysis, 2018 Year-end Report on Estimated Media and Advertising Investments in Turkey, <https://www.rd.org.tr/Assets/uploads/bf6ab5b5-0d86-4bc3-92a7-da47c165cb61.pdf> Accessed 25.11.2019

⁴⁶ Search engine category covers the investments made to search engines so that the advertisement is displayed in the first place. The advertisements displayed in search engines' publisher network or video platforms are included under "Display" category

⁴⁷ Report on Estimated Media and Advertising Investments in Turkey for 2019, First Six Months, September 2019, <https://www.rd.org.tr/Assets/uploads/90e6550c-d1cf-47ae-8725-61893b9af231.pdf>; (ii) 2018 Year-end Report on Estimated Media and Advertising Investments in Turkey, March 2019, <https://www.rd.org.tr/Assets/uploads/bf6ab5b5-0d86-4bc3-92a7-da47c165cb61.pdf> and (iii) 2017 Year-end Report on Estimated Media and Advertising Investments in Turkey, March 2018, <https://www.rd.org.tr/www/rd/assets/doc/RD-medya-ve-reklam-yatirimlari-2017-Raporu.pdf>. Accessed 25.11.2019

May12	(.....)	(.....)	(.....)
June12	(.....)	(.....)	(.....)
July12	(.....)	(.....)	(.....)
Agu12	(.....)	(.....)	(.....)
Sep.12	(.....)	(.....)	(.....)
Oct.12	(.....)	(.....)	(.....)
Nov.12	(.....)	(.....)	(.....)
Dec.12	(.....)	(.....)	(.....)
Jan.13	(.....)	(.....)	(.....)
Feb.13	(.....)	(.....)	(.....)
Mar.13	(.....)	(.....)	(.....)
Apr.13	(.....)	(.....)	(.....)
May13	(.....)	(.....)	(.....)
June13	(.....)	(.....)	(.....)
July13	(.....)	(.....)	(.....)
Agu13	(.....)	(.....)	(.....)
Sep.13	(.....)	(.....)	(.....)
Oct.13	(.....)	(.....)	(.....)
Nov.13	(.....)	(.....)	(.....)
Dec.13	(.....)	(.....)	(.....)
Jan.14	(.....)	(.....)	(.....)
Feb.14	(.....)	(.....)	(.....)
Mar.14	(.....)	(.....)	(.....)
Apr.14	(.....)	(.....)	(.....)
May14	(.....)	(.....)	(.....)
June14	(.....)	(.....)	(.....)
July14	(.....)	(.....)	(.....)
Agu14	(.....)	(.....)	(.....)
Sep.14	(.....)	(.....)	(.....)
Oct.14	(.....)	(.....)	(.....)
Nov.14	(.....)	(.....)	(.....)
Dec.14	(.....)	(.....)	(.....)
Jan.15	(.....)	(.....)	(.....)
Feb.15	(.....)	(.....)	(.....)
Mar.15	(.....)	(.....)	(.....)
Apr.15	(.....)	(.....)	(.....)
May15	(.....)	(.....)	(.....)
June15	(.....)	(.....)	(.....)
July15	(.....)	(.....)	(.....)
Agu15	(.....)	(.....)	(.....)
Sep.15	(.....)	(.....)	(.....)
Oct.15	(.....)	(.....)	(.....)
Nov.15	(.....)	(.....)	(.....)
Dec.15	(.....)	(.....)	(.....)
Jan.16	(.....)	(.....)	(.....)
Feb.16	(.....)	(.....)	(.....)
Mar.16	(.....)	(.....)	(.....)
Apr.16	(.....)	(.....)	(.....)
May16	(.....)	(.....)	(.....)
June16	(.....)	(.....)	(.....)
July16	(.....)	(.....)	(.....)
Agu16	(.....)	(.....)	(.....)
Sep.16	(.....)	(.....)	(.....)
Oct.16	(.....)	(.....)	(.....)
Nov.16	(.....)	(.....)	(.....)
Dec.16	(.....)	(.....)	(.....)
Jan.17	(.....)	(.....)	(.....)
Feb.17	(.....)	(.....)	(.....)

Mar.17	(.....)	(.....)	(.....)
Apr.17	(.....)	(.....)	(.....)
May17	(.....)	(.....)	(.....)
June17	(.....)	(.....)	(.....)
July17	(.....)	(.....)	(.....)
Agu17	(.....)	(.....)	(.....)
Sep.17	(.....)	(.....)	(.....)
Oct.17	(.....)	(.....)	(.....)
Nov.17	(.....)	(.....)	(.....)
Dec.17	(.....)	(.....)	(.....)
Jan.18	(.....)	(.....)	(.....)
Feb.18	(.....)	(.....)	(.....)
Mar.18	(.....)	(.....)	(.....)
Apr.18	(.....)	(.....)	(.....)
May18	(.....)	(.....)	(.....)
June18	(.....)	(.....)	(.....)
July18	(.....)	(.....)	(.....)
Agu18	(.....)	(.....)	(.....)
Sep.18	(.....)	(.....)	(.....)
Oct.18	(.....)	(.....)	(.....)
Nov.18	(.....)	(.....)	(.....)
Dec.18	(.....)	(.....)	(.....)
Jan.19	(.....)	(.....)	(.....)
Feb.19	(.....)	(.....)	(.....)
Mar.19	(.....)	(.....)	(.....)
Apr.19	(.....)	(.....)	(.....)
May19	(.....)	(.....)	(.....)
June19	(.....)	(.....)	(.....)
July19	(.....)	(.....)	(.....)
Source: Information submitted by undertakings.			

(153) As seen from the table there is a huge difference between clicks on Google's text ad service AdWords and Yandex's text ad service. Google holds almost the entire word-based advertising services market; the most important reason of this is Google's dominant position in general search services market.

(154) Based on the traffic amounts above, undertakings' annual market shares are calculated:

Table 10: The number of clicks on undertakings' text ads and their market shares

Years	Traffic amount			Market shares (%)		
	Google	Yandex	Total	Google	Yandex	Total
2012	(.....)	(.....)	(.....)	(.....)	(.....)	100
2013	(.....)	(.....)		(.....)	(.....)	100
2014	(.....)	(.....)		(.....)	(.....)	100
2015	(.....)	(.....)		(.....)	(.....)	100
2016	(.....)	(.....)		(.....)	(.....)	100
2017	(.....)	(.....)		(.....)	(.....)	100
2018	(.....)	(.....)		(.....)	(.....)	100
2019	(.....)	(.....)		(.....)	(.....)	100
Total	(.....)	(.....)		(.....)	(.....)	100
Source: Information submitted by undertakings and calculations						

(155) As seen from the table, Yandex could never go beyond (.....) in the market. Google has carried out activities with a market power similar to a monopoly.

(156) Similar to the general search services, it is likely that important network effects stemming from the fact that text ad services are a multilateral platform, user habits, Google's brand recognition as well as Google's financial and economic power constitute barriers to entry and expansion. Moreover, Google's portfolio developed in time, which is important for advertisement services, is noteworthy. It seems that Google is the only choice for both users and advertisers.

(157) On the other hand, the buyers of AdWords service are advertisers. As stated in the previous section, Google has a considerable market share in search services in our country, like other countries in the world. Therefore, Google is very important for advertisers because of AdWords advertisements. Search engine users prefer Google and there are a lot of advertisers in the market; as a result, advertisers do not have a buyer power vis à vis Google.

(158) In light of the information and observations above, it is concluded that Google is dominant in the market for text advertising with its AdWords services.

I.4.2. Assessment Related To Abuse

(159) In this section, the claims under the scope of the file are analyzed within the framework of the relevant literature, legislation, documents and information obtained during the on-site inspection. The section also includes an evaluation whether the claims in question are true as well as a detailed assessment of Google's conduct.

(160) The claims that Google abused its dominant position by complicating its competitors' activities by means of the updates concerning general search and AdWords ads constitute the main part of the file. In order to clarify the analyses, the claims are categorized into two: "The claims concerning the algorithm changes made by Google related to search results" and "the claims concerning text ads."

The claims concerning the algorithm changes made by Google related to search results

- The nature of and reasons for algorithm changes made by Google
- Algorithm changes affected organic result ranking.
- Failure to give information about search algorithm changes led to a serious uncertainty in organic search results ranking.
- Algorithm changes increased the dependency on text ads.

Claims concerning text ads

- Text ads are displayed at the top of the search result page in increasing frequency, which is negatively affecting organic traffic.
- Google causes ambiguity about text ads' advertisement nature.
- Google promotes placing ads with brand names, resulting in websites allocating larger ad budgets to Google.
- Text ads given by websites affect their ranking in organic results.

(161) Google's practices related to each claim and finally the possible effects of the said practices on the relevant markets are analyzed below.

I.4.2.1. Assessment of the Claims Concerning the Algorithm Changes Made By Google Related To Search Results

(162) As stated above, mainly, the claims are addressed in the file: Google made algorithm changes affecting organic search results ranking and most of the time does not share those changes with parties, which leads to uncertainty in websites' organic search results ranking. Moreover, due to this uncertainty, websites resort to AdWords ads in order to guarantee that they are displayed at upper ranks in search results.

(163) Within the framework of the claims, algorithm updates made by Google to search algorithms should be analyzed from four aspects.

I.4.2.1.1. The Nature Of And The Reasons For Algorithm Changes Made By Google

(164) In relation with the algorithm changes, Google made the following explanations: Millions of changes are made every year to raise the standards of search results. Those changes may affect some or all of the queries. The implementation of algorithm changes in Turkey is the same as elsewhere. This process involves comprehensive and repetitive tests. Algorithm changes are evaluated by external evaluators. Accordingly, evaluators are shown a web page before and after the algorithm change and they are asked to evaluate different versions. Evaluators do not know which version includes the change. This evaluation is a criterion to determine whether the changes improve the quality of search results. Lastly, in case all the tests yield satisfying results, algorithm is put into use completely.

(165) The firms stated that algorithm changes made by Google are categorized under three different titles:

- Compulsory Algorithm Changes: Google make this kind of changes after giving information before, does not set a date to switch and waits for websites to be prepared. For instance HTTPS, Mobile First, Mobile Indexing, Speed, AMP, Chrome Security Warnings, Intrusive Interstitial, Rank Brain updates.
- Core Algorithm Changes: Google makes those algorithm changes twice or three times a year, in general one in the first half of the year and the other in the second half. The exact dates of those changes are not clear. The changes are made on a website basis. In case Google penalizes a website due to security or spam, it informs the website concerned thereof. If a website is penalized in such a way, it takes one or one and a half year to end. There are not any other issues shared.
- Periodic improvement changes: Google is constantly making large and small changes and undertakings become aware of them later.

(166) Within the scope of the file, Google was requested information about all its major updates concerning search algorithms between 2011 and 2019. All major algorithms made in search algorithms and explanations about their scope and dates are given in the tale below in Google's words:

Table 11: (.....)

The name of the update	Explanation	Date
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
(.....)	(.....)	(.....)
Source : Google		

(167) According to the table above, Google does not set a clear date for algorithm changes. Google explains that this is because an algorithm change’s process depends on its function. However, undertakings state that because of this, they have to work for months to detect the effects of an algorithm change on websites and to resolve a negative effect, if any.

(168) Beside the updates given above, there are updates stated by the parties who were requested information. The table below shows other updates stated by third parties and explanations about relatively large ones.

Table 12: The list of changes made by Google (2000-2019)

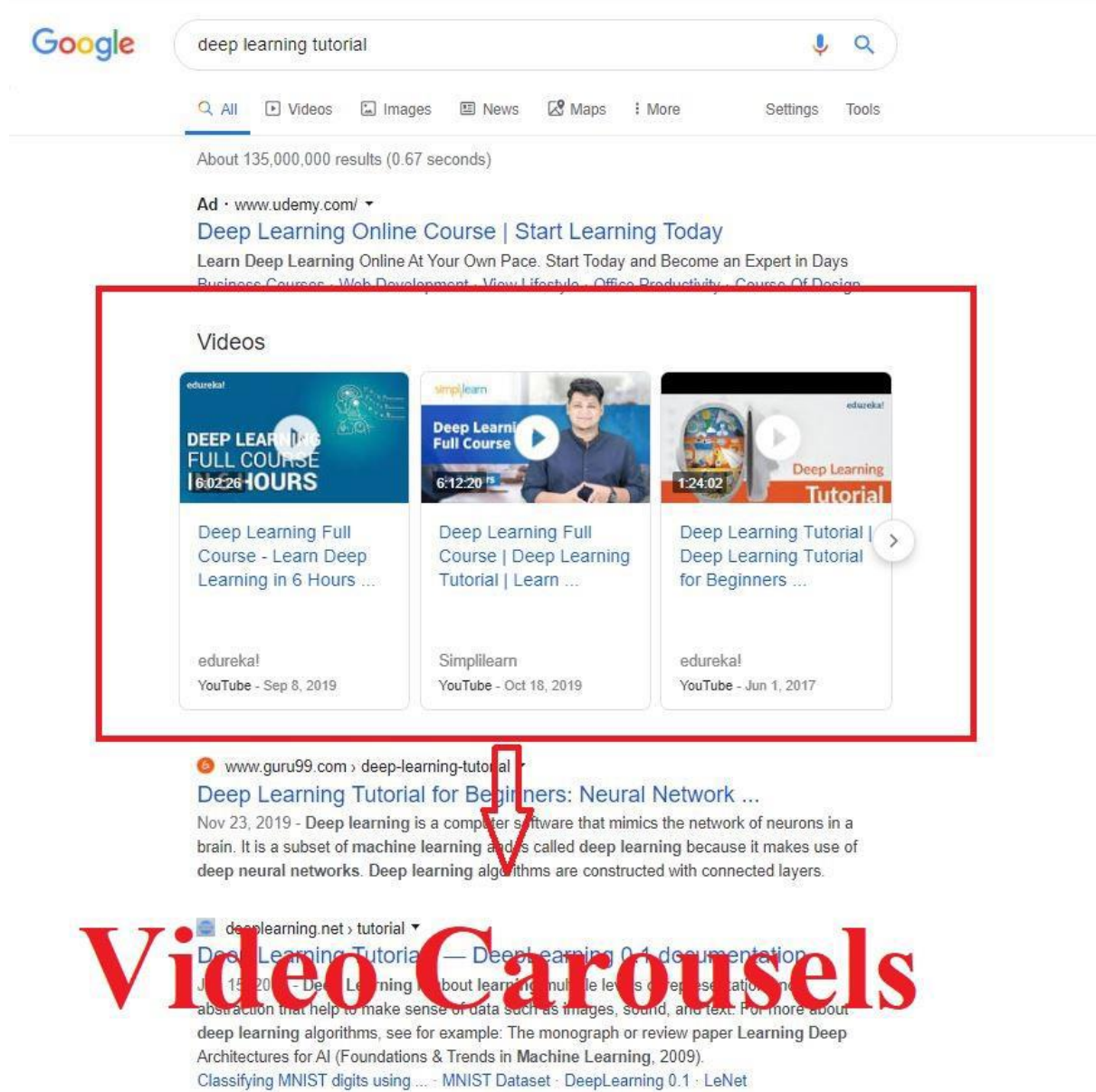
(.....TRADE SECRET.....)

(169) As seen from the table, Google makes a lot of algorithm changes related to search services. Some of them are confirmed later whereas some of them are not confirmed by Google. Moreover, with respect to exceptionally small part of updates in the list, Google gives information before.

(170) Another point to be noted is the scope of updates. Google’s explanation about the aim of the updates is “The aim of all Google search algorithm changes is to improve search service quality and practicality for users.”

(171) It is seen that the changes such as Video Carousels, Snippet Length Increase, Zeroreult SERP Test, AdWords Shake-up, etc. have the ability to feature Google’s own services and create disadvantages for organic results. Video Carousels provides video results in a scrollable group. An example is given below. In its plea, Google suggested that Google chooses the most relevant results and places those in a scrollable group according to their relevance within the principles of general relevancy. The reason why YouTube videos appear more frequently is that YouTube’s popularity and vast variety of videos. Therefore, it is normal that Google algorithms detect YouTube videos as the most relevant results among videos. However, this justification does not mean that Google has advantage because there are mostly Google’s results in the video area.

Figure 3: Video Carousels



(172) Similarly, it is understood that due to Snippet Length Increase, the length of cards under which unpaid results are displayed is increased. It is an update advantageous for Google because it leads to transferring content directly through Google itself. In relation to Zero-result SERP Test Google argued that it shows information directly corresponding to local time, math formulas and unit conversion queries without blue link results in cases when it believes to a large extent that blue link results are not beneficial. This update creates similar effects with Snippet. It is stated that AdWords Shake-u update terminates displaying text ads on the right side in desktop channels. This creates advantages for Google as more ads are displayed above organic results.

(173) Moreover, websites were asked to submit their opinions about the possible aims of Google's algorithm changes and their expected customer benefit. In order to avoid repetition, their opinions are given below as a group.

(174) 23⁴⁸ websites state that algorithm changes are beneficial for customers. In general, they state that

- Although they do not know exactly the reasons for algorithm updates and their expected consumer benefits, after the updates of which they are informed before, mostly they observe that websites trying to manipulate search results and thus mislead consumers are affected negatively by algorithm changes. Google aims to detect and take action against websites that are trying to deceive the algorithm malevolently and that are providing spam.
- They think that since updates prioritize users' needs and experience and make search services more practical for users so they are made to increase user benefits.
- Updates are made to connect users with the most relevant results for their search.
- It is not possible to make a certain comment because Google does not explain their effects or likely results however they understand that updates are made to fight spam, for content quality, secure connection, faster internet.
- The reason for updates is to provide services suitable for users' needs as user behavior has changed in time, for instance most users access internet through mobile devices therefore Google made updates so that websites are displayed on mobile devices better.
- They observe that updates aim to enable users to reach the content they are searching faster and more easily from right and comprehensible sources.
- It was easier for a website to manipulate Google search results and appear on the first place at the beginning of 2010s. Today thanks to the algorithm changes by Google, search results are more relevant compared to the past and as a result the developments are in favor of the websites. Due to those updates websites that do not deal with manipulation are awarded in a sense. Google's updates related to organic results are successful and appropriate.
- On the basis of each update
- Panda update aims to push down websites with low-quality content and spam websites that align keywords successively and appear on the first ranks and it prevents black SEO attempts and consequently provides more relevant results to users.
- Penguin update pushes back websites that buys backlinks⁴⁹ from spam websites to be displayed at higher ranks in search results. After this update, if websites that buy backlinks are not well-known, they are not displayed at upper ranks on the contrary they are displayed at lower

⁴⁸ (.....)

⁴⁹ Backlink means there is a banner or text link of another website on the home page or another page of a website. The website owning the banner or the text link tries to raise its ranking in Google or other search engines.

ranks.

- The Exact Match Domain update lowers the positions of websites that have the exact word used by users for searching in their domain or gives a link in this way and targets only the traffic to be obtained in this way trying to be displayed at upper ranks in spite of a weak content. As a result, websites that appear at upper ranks despite their spam content are removed from search results.
- Pirate update lowers the positions of websites with copied/pirate content on the search results. The update is made to prevent copyright problems and forfeiting.
- Hummingbird and RankBrain updates try to learn personal searches and bring results accordingly. As a result of those updates, the websites' ranking did not change. Google's user experience improved.
- Pigeon/Possum update uses users' location and displays local results at higher ranks. Results that are physically closer to users started to be listed at upper ranks.
- Mobile Friendly Update and Mobile-First Indexing updates display websites that are compatible to mobile at upper ranks and lowers websites that are not compatible with mobile in search results. The aim of the update is to comply with user habits that have changed in time. Displaying websites that are not compatible with mobile at lower ranks is beneficial for users.
- Fred update is related to websites that contain many ads, are not valuable with respect to content, and that do not serve for user benefit. Accordingly such websites that do not benefit consumers and do not have any aims other than financial revenues are displayed at lower ranks.
- As a result of Page Speed Update, websites that are loaded in longer than one second are displayed at lower ranks in search results because they are not user friendly (the time suggested by Google for loading websites is one second). The update aims to provide a more user-friendly search engine experience. The updates are made to increase website quality and thus user benefit.

(175) Out of 25 of the websites⁵⁰ that answered the question did not render opinion because

- Some of them said that they were newly established so they did not have the sufficient experience to comment on the subject.
- Some of them said that they could not observe updates' effects/benefits because they did not have any information about their timing or content.
- Some of them stated that they would not comment on the subject because they were not negatively affected by updates.

(176) Briefly, it is understood from the opinions that websites think that algorithm changes aim to increase user benefit and ensure that websites are designed in a way to provide the most relevant content with the highest quality. Websites trying to

⁵⁰ (.....)

manipulate search results are eliminated thanks to those updates. Users can access to websites with more relevant content of higher quality at upper ranks.

I.4.2.1.2. Analysing the Effects of Algorithm Changes To Organic Result Ranking

(177) The application that is the subject of the file and answers of the undertakings that were requested information include the claim that algorithm changes made by Google lead to serious and unrecoverable loss in ranking and being excluded from the search results. Therefore, it is necessary to analyze the effects of search algorithm changes by Google on websites that use Google general search services.

(178) First, the applicant showed the effects of Panda update made in the year (.....) on its organic traffic on the graph below:

Figure 4: **Panda update's effect on the undertaking**

(.....TRADE SECRET.....)

Source: The application

(179) It is seen from the graph above that the undertaking's traffic decreased after the update. The applicant claims that its traffic decreased more after Penguin update in (.....).

(180) On the other hand, some websites submitted information that they were negatively affected by Google's algorithm changes. One of them gave the following samples for the traffic loss caused by an algorithm change:

Figure 5: **An undertaking's organic traffic between March 1, 2015 and March 1, 2016**

(.....TRADE SECRET.....)

Source: Undertaking's data

(181) The undertaking stated that while its organic traffic was (.....) before an algorithm change in 2015, it fell to (.....) after the algorithm change. The graph above showed the said change. The methods to resolve the loss are to allocate more advertisement budget for Google AdWords, to improve the personnel capacity to find solutions against Google's changes and to increase IT resources.

(182) Moreover the undertaking stated that Google increased the number of ads from three to four first rows after its algorithm change in 2016, which decreased the undertaking's organic traffic on a query basis between (.....)% to (.....)%.

(183) The figure below shows another example:

Figure 6: **The website organic traffic course of an undertaking between 2011 – 2018**

(.....TRADE SECRET.....)

Source: Data of the undertaking

(184) It is suggested that the traffic loss shown in the figure above stemmed from the algorithm changes by Google in July and August 2018. Figure 9 shows the negative

effects of an algorithm change by Google in a website's organic traffic.

(185) Another example given by undertakings shows the effects of algorithm changes on the website's organic traffic:

Figure 7: The changes in the organic traffic of an undertaking in the sector between February 17 and March 7 – March 10 and March 27, 2018

(.....TRADE SECRET.....)

(186) Google stated that in its explanation as a result of the algorithm change made on March 9 and 10 2018, the following changes happened in the undertaking's website traffic:

- The traffic was (.....) in February 2018, and (.....) in March 2018 (first 9 days). With this change, daily average website traffic dropped to (.....).
- In February the daily traffic loss was (.....)% and in the first nine days of March, the daily traffic loss was (.....)%.

According to the graph, the undertaking concerned lost (.....)% traffic between 17 February – 7 March and 10 – 27 March 2018.

(187) The figure below shows that algorithm changes made by Google led to different results in an undertaking's traffic through the years and the results changed constantly. As seen from the figure, although it is not possible to say that the results stemmed from algorithm changes alone, following those changes, it is possible to observe both an increase by (.....) % and decrease by (.....) %.

Figure 8: The effects of algorithm changes by Google to an undertaking's data

(.....TRADE SECRET.....)

(188) In order to analyze the claims in detail, websites were asked for information about how they were affected by the search algorithm changes. (.....), which said that they were affected positively briefly explained that they experienced not a fall but a rise in Google search results. There was not a coincidence between the queries with ranking loss and algorithm dates.

(189) Briefly (.....) and (.....), which said that they were affected negatively explained that

- Some of the major updates may negatively affect a website's traffic. For instance, the update in June 2019 prevented a website from being listed twice. While this update diversifies search results, since a website cannot have more than one link in search results, websites that are successful in this area has relatively less visibility. Thus the update creates negative effects.
- E-trade websites contains products, campaigns, product categories, etc. therefore Panda and Penguin updates, which mainly concerns the content, creates negative effects. On the other hand, algorithm changes are beneficial because consumers can reach more relevant results.

(190) Briefly, (.....) and (.....), which said that they were not affected negatively

explained that

- They did not experience traffic loss due to updates between the period 2011 and 2019,
- In this period, the traffic loss stemmed from the low number of products, product display problems such as not specifying the qualities and insufficiency/lack of SEO content,
- Updates are made to increase consumer benefit so that they can reach the results directly relevant to the subject and channel rapidly. Websites that are negatively affected by the updates are mostly those that want to manipulate the search results and deceive consumers,
- If a website conducts its business in a certain quality level to provide benefits to the consumers and in accordance with the advice given by Google to everyone, it will not bear serious loss although there may be fluctuations in its traffic and ranking in the short run due to algorithms.
- On one hand, Google punishes spam websites and on the other hand it awards websites with proper content via its updates. Thanks to the updates, more reliable and more qualified contents are displayed at upper ranks. Therefore, algorithm updates are well-directed and successful. Such websites do not face losses in traffic or ranking.

(191) Briefly, (....) and (.....), which said that they were affected both positively and negatively explained that

- Google's updates sometimes increase and sometimes decrease the visibility, ranking and traffic of websites; therefore whether the update creates positive effects depends on the updates.
- Updates sometimes affect websites negatively and sometimes positively. However the effects are not long lasting.

(192) Briefly, (....) and (.....), which said that the effects of updates on traffic and ranking of websites cannot be measured explained that

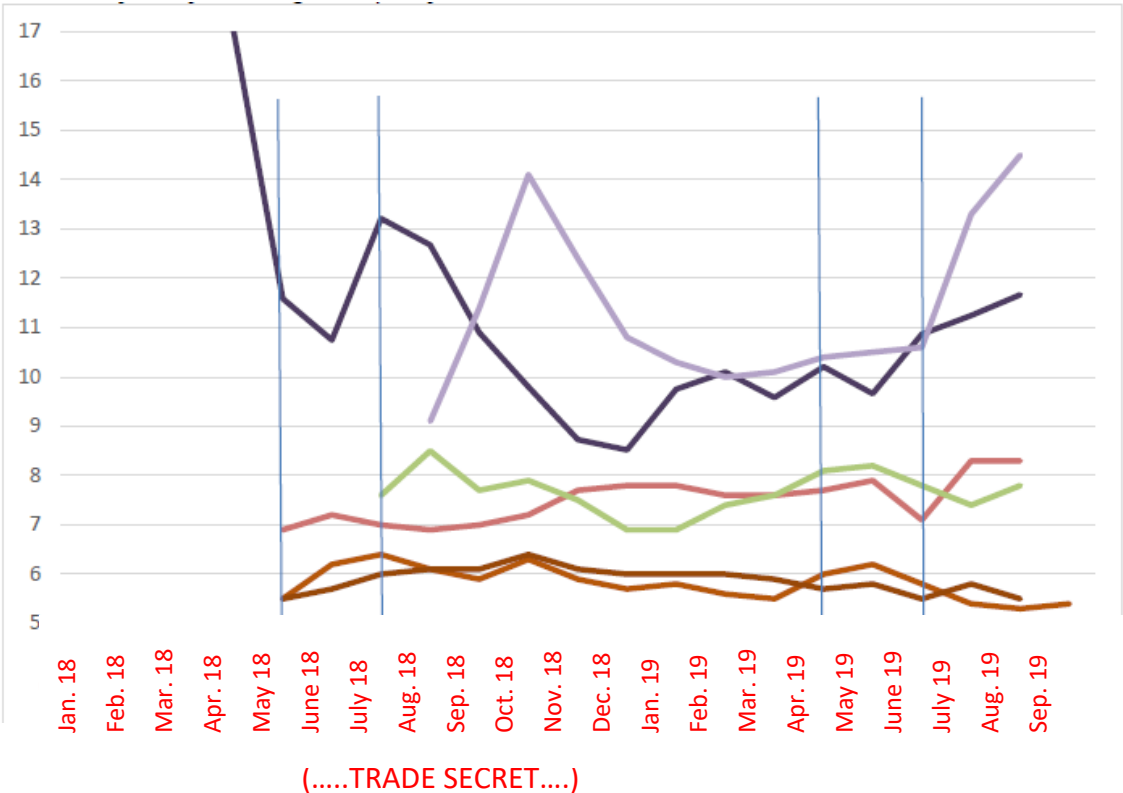
- There are a lot of factors that affect a website's traffic; it is not possible to obtain data showing a loss stemming from an algorithm change,
- A rise or fall in the traffic or ranking of websites may change depending on the factors such as content and software improvements within a website, poor or good performance of competing websites, online and/or offline advertising, etc.; thus it is not possible to base a rise or fall in the traffic or ranking on Google's algorithm updates.

(193) The breakdown of the answers given by 48 websites is as follows: 38% of the websites state that they are not negatively affected by algorithm updates, 21% of the websites stated that they are affected both negatively and positively, 33% of the websites state that they cannot detect whether the loss/increase in the traffic stems from algorithm changes. 2% state that they are affected positively and 6% state that they are affected negatively.

(194) It is inferred from the opinions of the websites that they think that their traffic and ranking are not negatively affected by algorithm updates, except for the three websites claiming that they are negatively affected.

(195) In order to measure whether undertakings' rankings are affected by algorithm updates, they were asked to provide average ranking information in Google organic results between 2011 and 2019. However undertakings answered that they did not have long-term data; they could only obtain 16-month data from Search Console. In light of those data, the graphs showing the changes in the average monthly ranking are prepared by classifying them as small, medium and large.⁵¹ The graphs aim to show whether (.....) and (.....) affected ranking. Undertakings think that (.....) caused traffic loss whereas (.....) is a major algorithm update, which is known to be realized in the relevant period within the scope of the file.

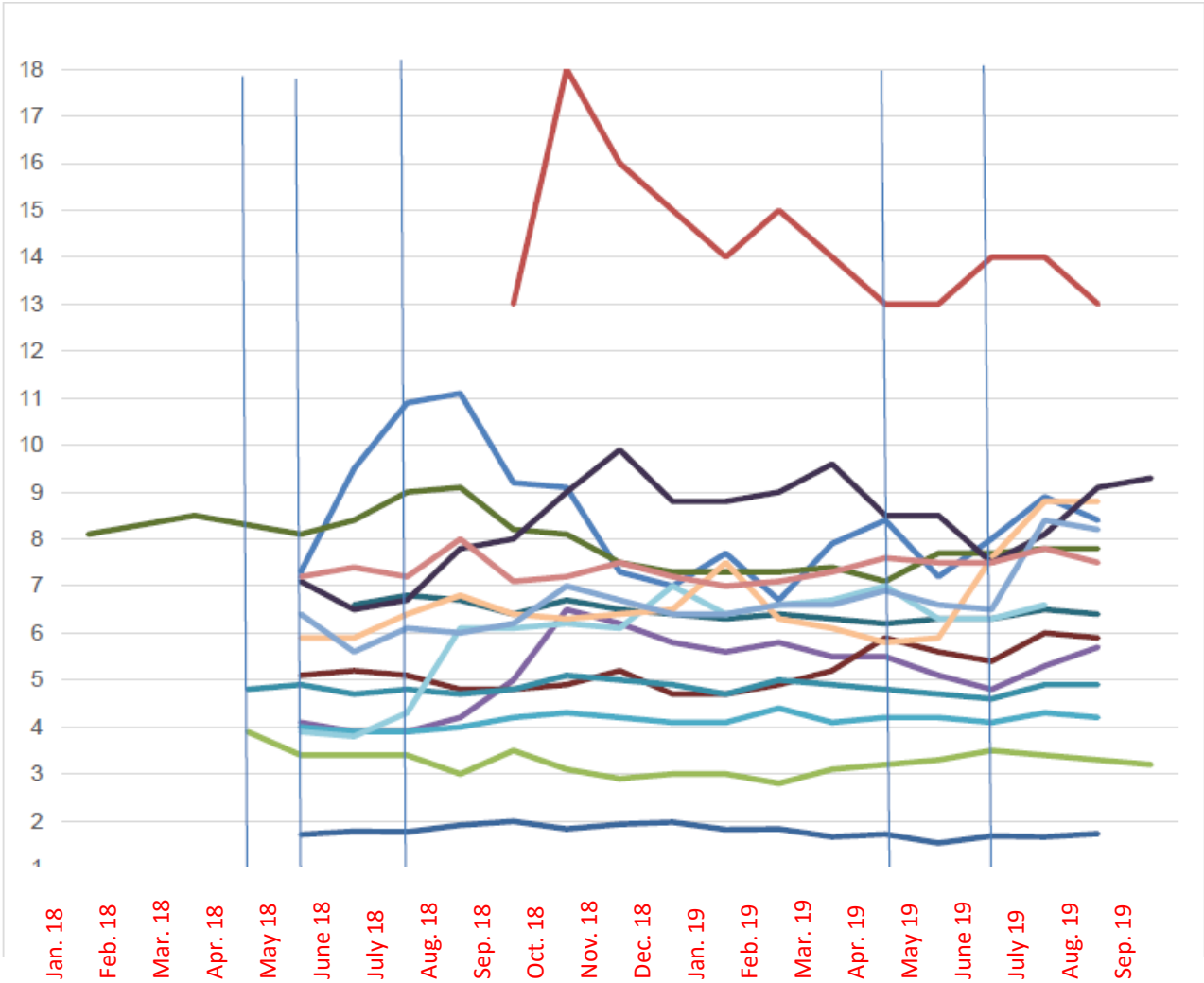
Graph 1: The place of undertakings with small-scale traffic in ranking



Source: Data submitted by the undertakings

⁵¹ While analyzing the ranking data, a decrease in the numerical value of the ranking (for instance rising from the 2nd place to 1st) means an increase in ranking, thus the downward movement in the graph is positive while the upward movement is negative.

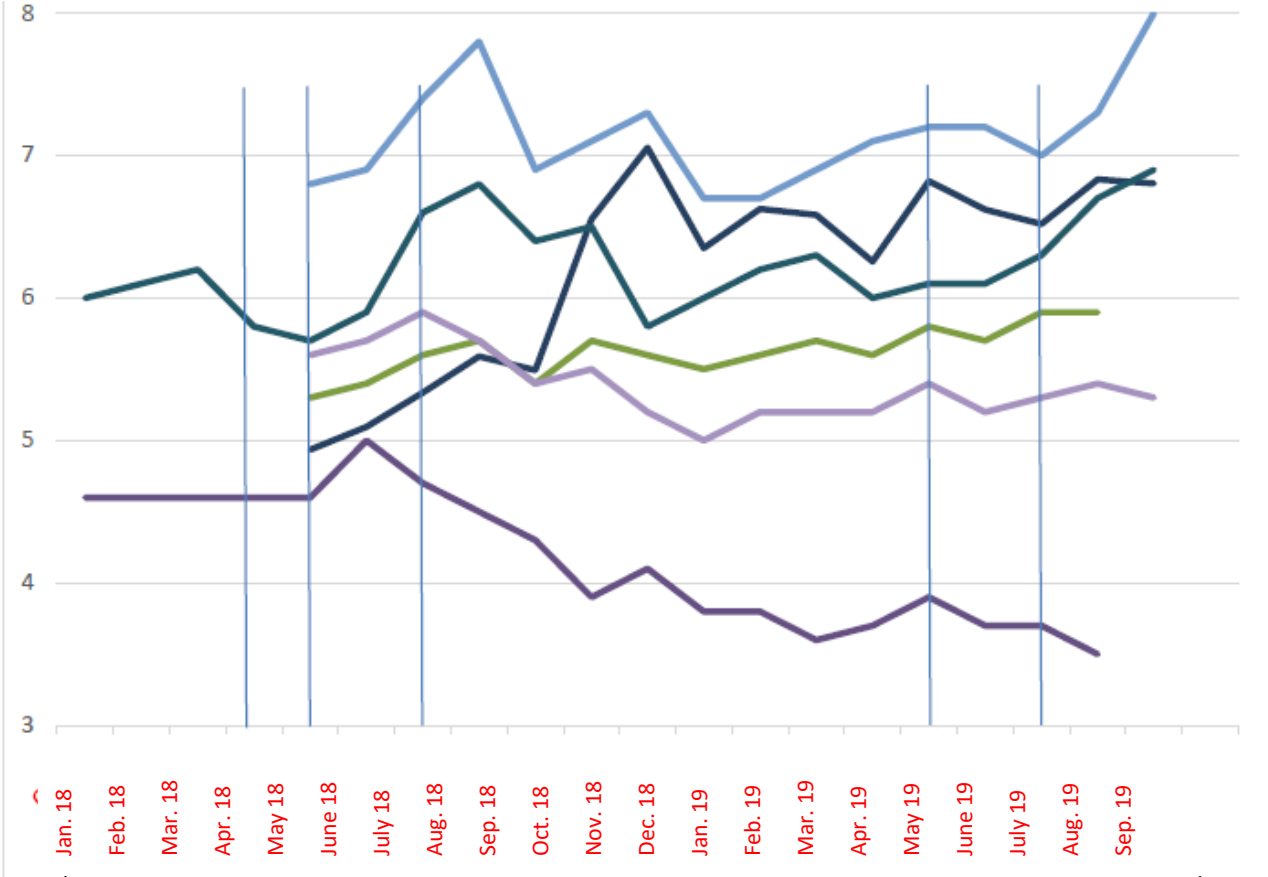
Graph 2: The place of undertakings with medium-scale traffic in ranking



(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 3: The place of undertakings with large-scale traffic in ranking



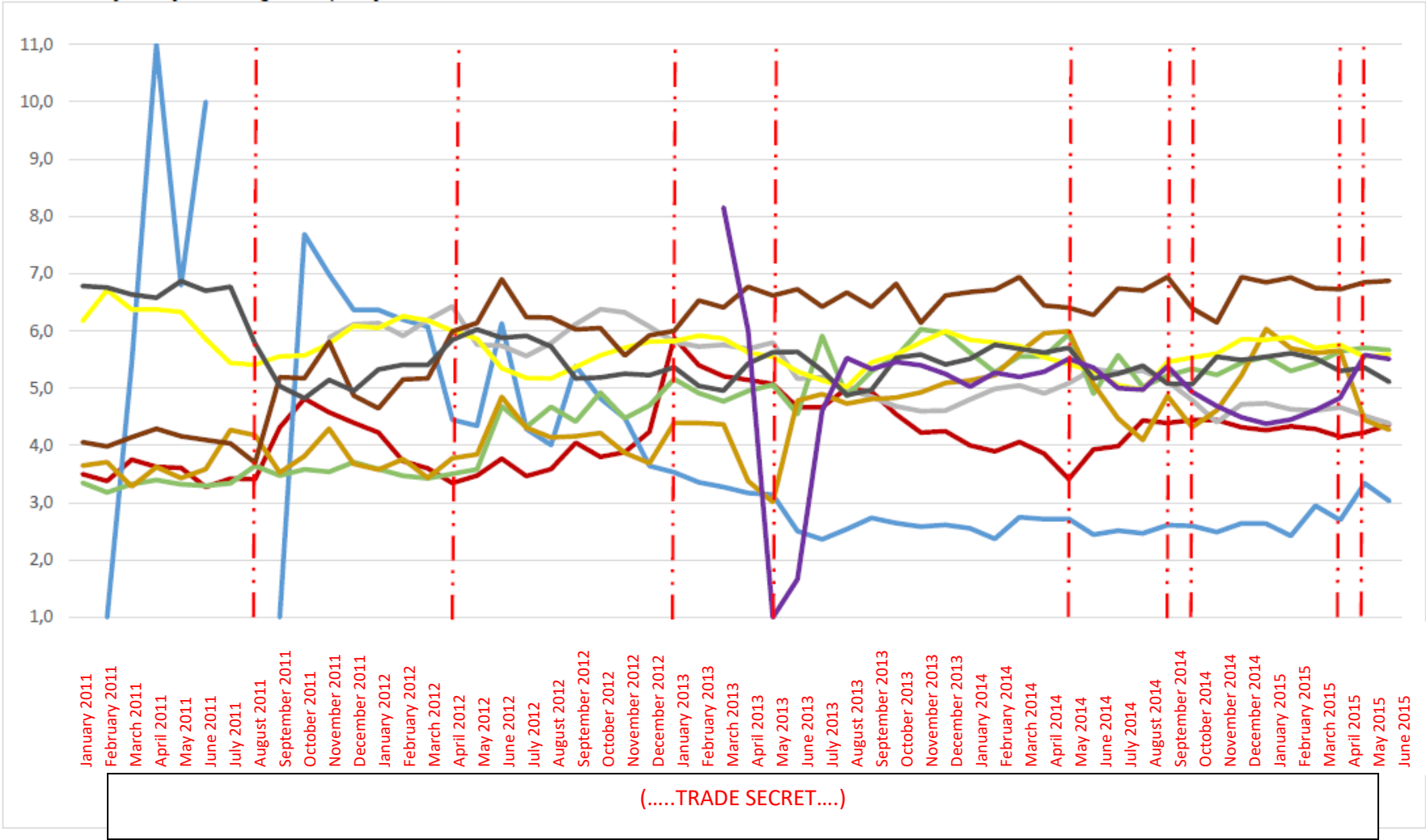
(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

(196) The graphs show that monthly average ranking data are not static. If it is assumed that the only reason of the changes is algorithm change, some of the undertakings experienced a loss while some of them experienced an increase in ranking regardless of their size. On the other hand, some of the undertakings were not affected at all and kept its normal course.

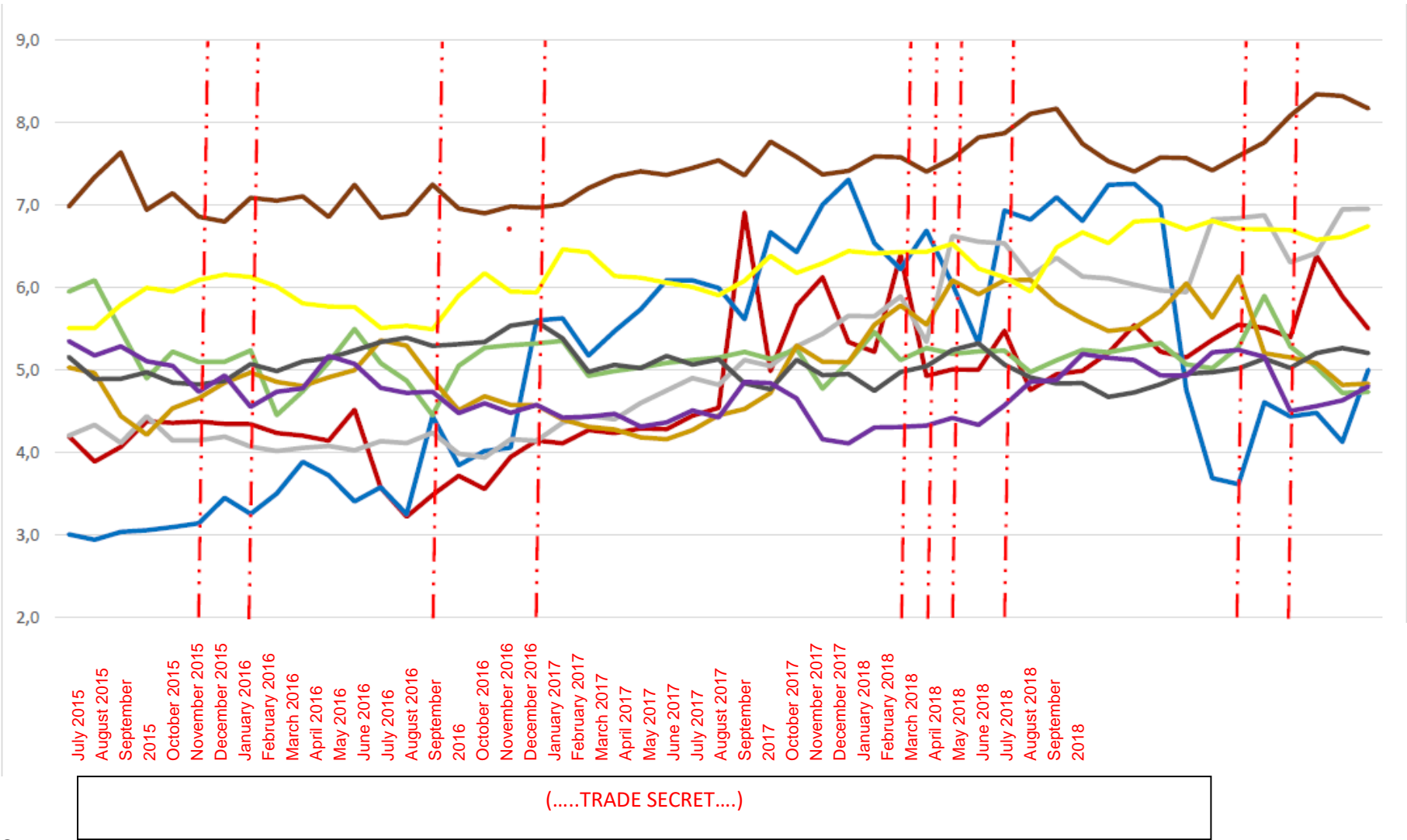
(197) The graphs below are prepared within the scope of the average ranking data of the websites on the first page of the general search results, provided by Google based on the Wednesday of the second week of each month. The algorithm changes in the graphs in chronological order are as follows: (.....)

Graph 4: The place of small size undertakings in ranking - I



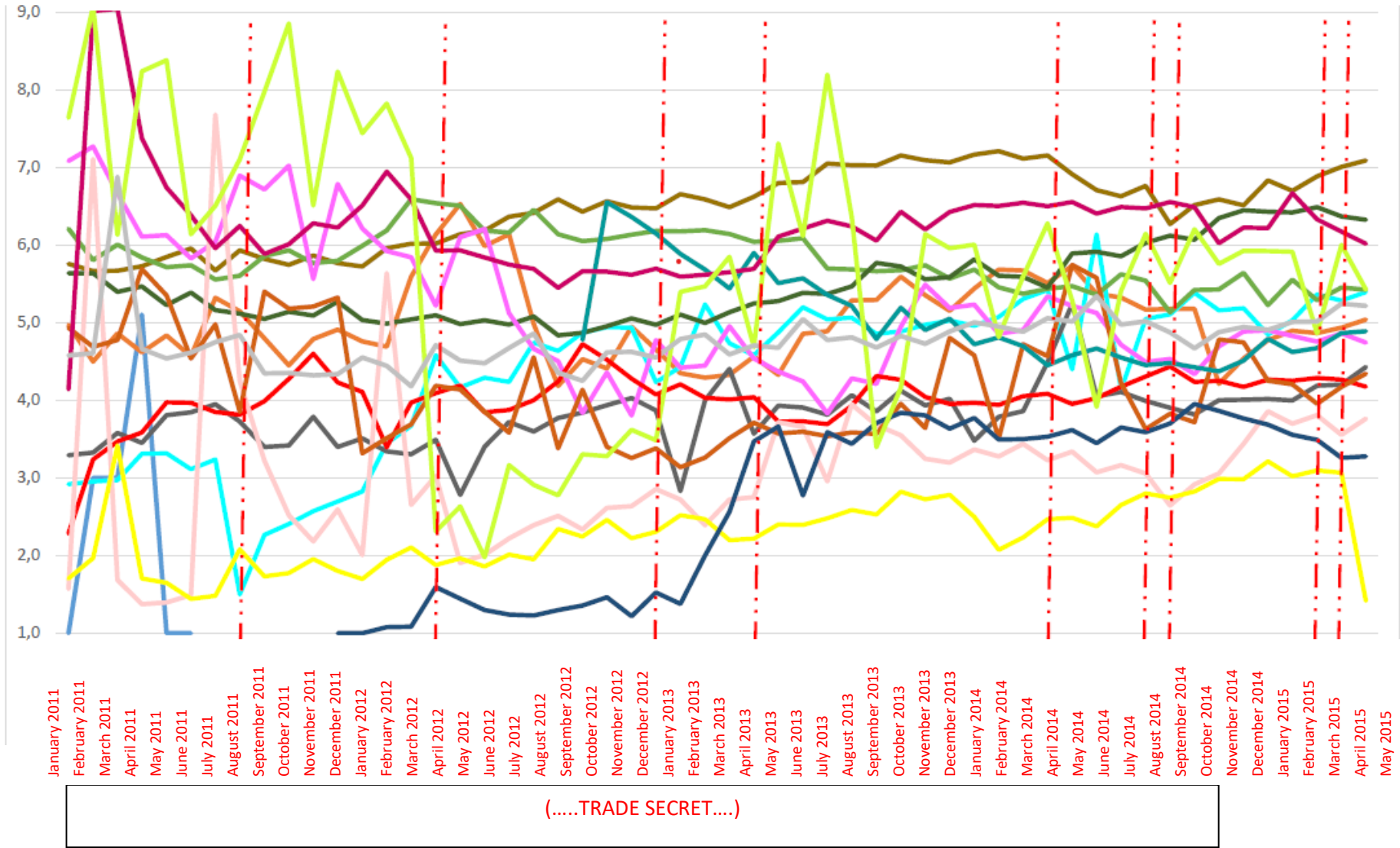
Source: Data submitted by the undertakings

Graph 5: The place of small size undertakings in ranking – II



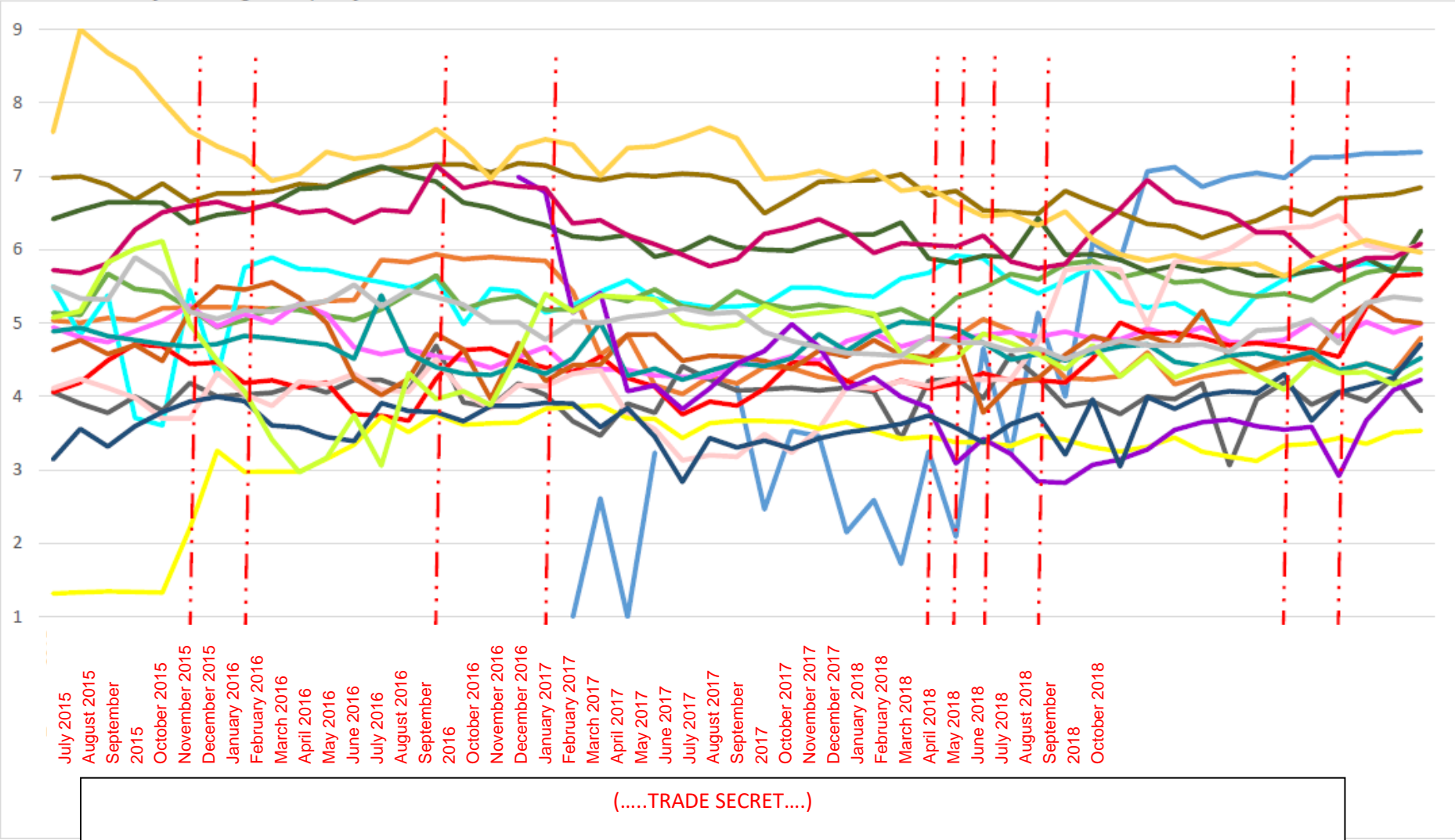
Source: Data submitted by the undertakings

Graph 6: The place of medium size undertakings in ranking - I



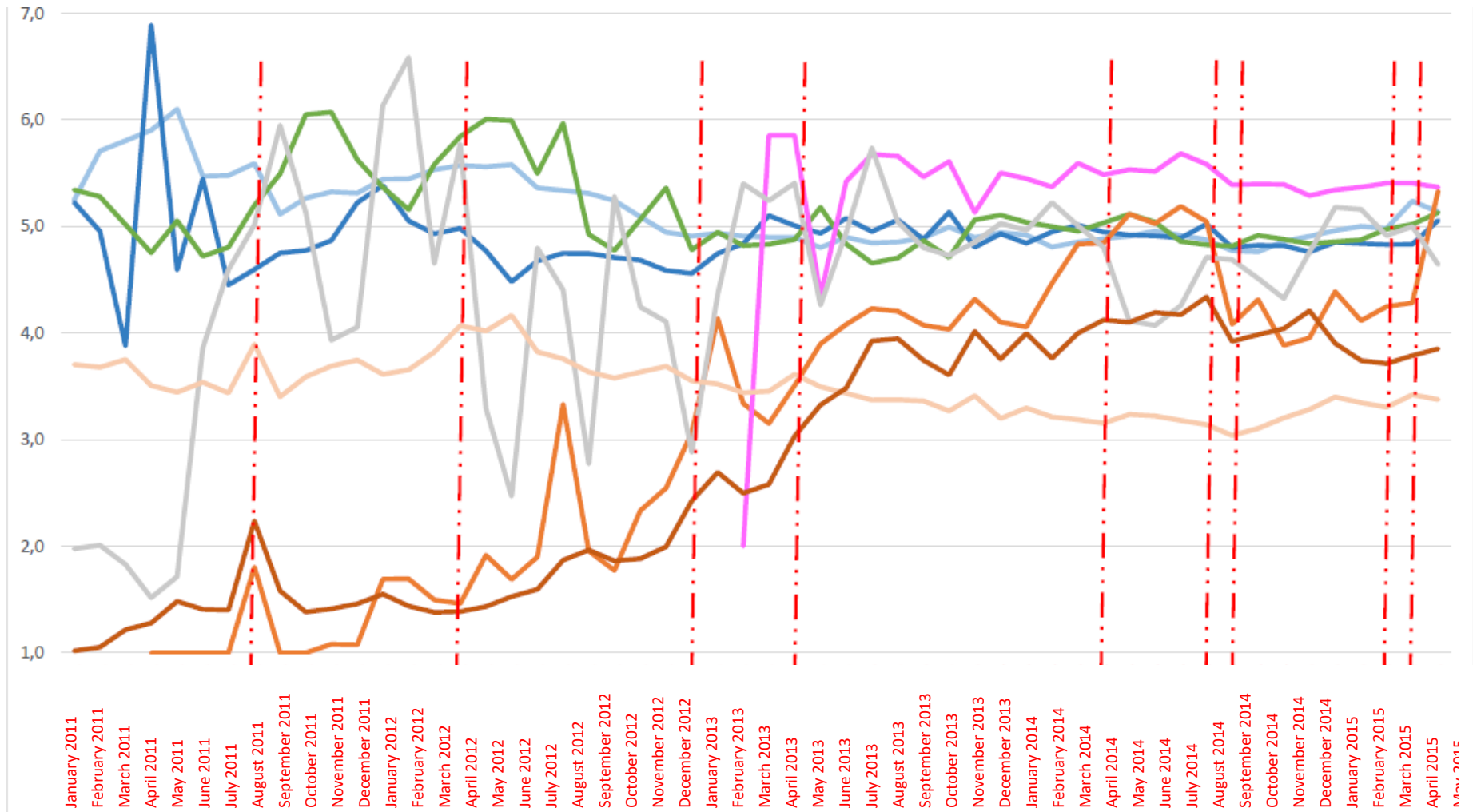
Source: Data submitted by the undertakings

Graph 7: The place of medium size undertakings in ranking – II



Source: Data submitted by the undertakings

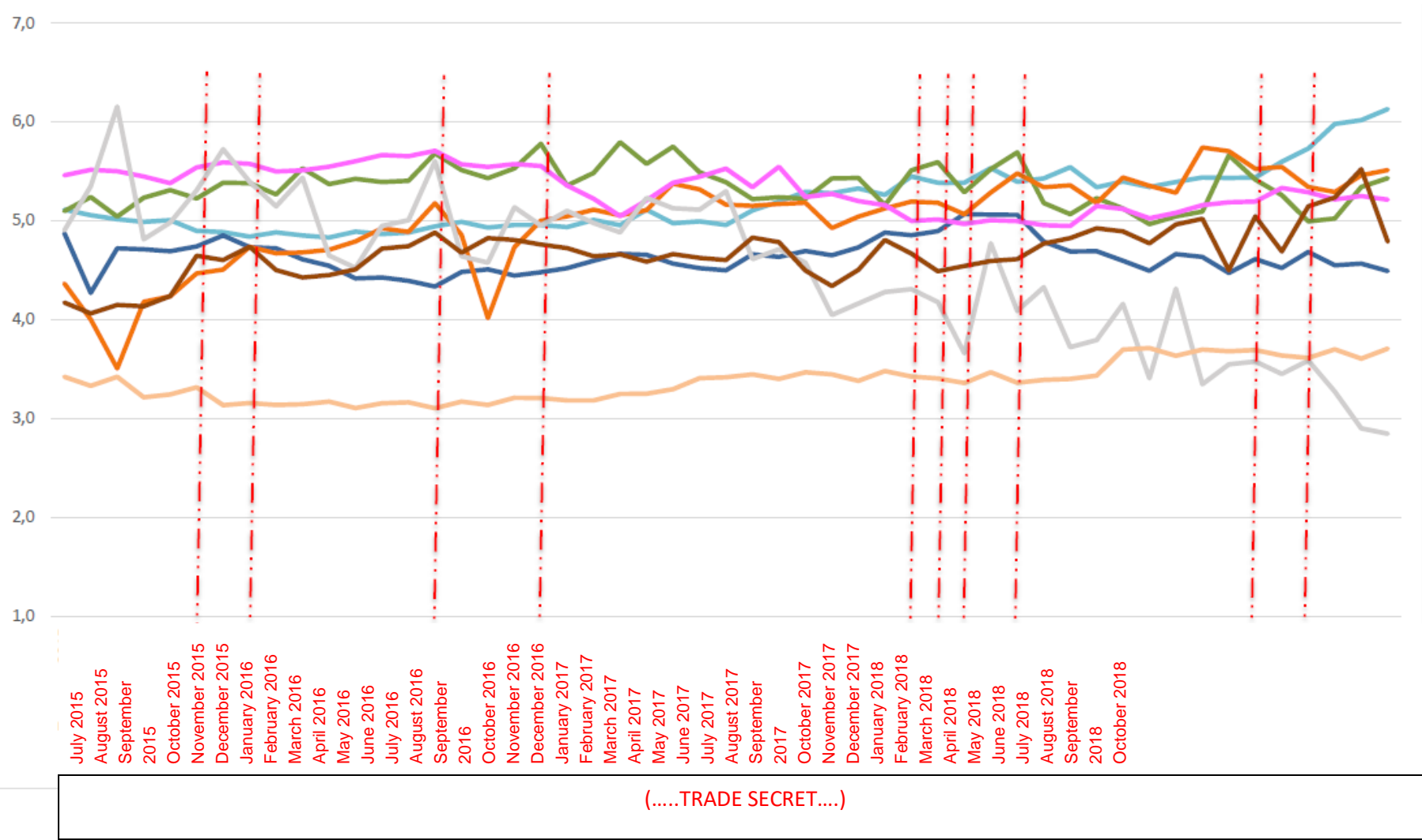
Graph 8: The place of large size undertakings in ranking – I



Source:

(.....TRADE SECRET.....)

Graph 9: The place of large size undertakings in ranking – II



Source: Data submitted by the undertakings

(198) It is understood from the graphs that there are fluctuations in websites' ranking regardless of whether there is a major algorithm update. Secondly, in periods when there was an algorithm change, there were changes in ranking regardless of websites' traffic volume. Thirdly, after certain algorithm changes, more websites' ranking changed positively but at the same time following some other algorithm changes, fewer websites' ranking changed positively. Depending on the statements of the undertakings above and taking into account various internal and external factors effecting ranking (better performance by competing websites), it is not possible to infer that changes in ranking when there was an algorithm change stemmed directly from updates. On the other hand, a change in ranking as a natural result of Google general search result page leads to an improvement in one website's ranking and decline in another. Therefore, a positive effect of an algorithm change to the ranking of a website means that another website has lost its ranking.

(199) In light of those findings, it is not possible to conclude, by using undertakings' data, that rankings which are stable during ordinary times fluctuates in a systematic and regular way after an algorithm change.

(200) On the other hand, within the scope of the file, the effects of algorithm changes to ranking are analyzed from a micro perspective. In order to show how the algorithm changes made by Google are affecting the ranking on the first page of search results, within the scope of the information requested from Google, the first 50 most searched query on Google in e-trade sector was examined with respect to their ranking before and after algorithm. The examples that create relatively more effects in ranking are given below.

(201) Google made (.....) algorithm change in (.....). Before that date, when "koçtaş" was searched on Google, "(.....)" website was on the first eight ranks of the organic search result list, "(.....)" was the ninth and "(.....)" was on the last rank. However, after (.....) algorithm change, seven links of "(.....)" website were removed from the first page, "(.....)", which was the ninth in ranking before the algorithm change moved to the second rank. Therefore, it is understood that (.....) algorithm, made by Google in the year (.....), chose the first link from the brand searched but other links were different from the brand searched. Google stated in its plea that (.....) result on the first rank was displayed together with 6 (.....), therefore it was displayed not with a single link but seven links after the update. With respect to this argument, even if it is possible to say that there is not a difference in the number of links depending on (.....) update, it is understood that due to another update called (.....), there is a difference in the display ranking of the results. For instance (.....) fell back to the fifth ranking under new conditions.

koçtaş			
15.07.2011			15.09.2011
(.....)			(.....)
(.....)	(.....)		(.....)
(.....)			(.....)
(.....)			(.....)
(.....)			(.....)
(.....)			(.....)

(.....)	(.....)
(.....)	(.....)
(.....)	(.....)
(.....)	(.....)

(202) When the search word was chosen as “mynet”, the results were similar to the results of “koçtaş”. The similarity rate between the brand searched and the results were lower and different brands were reflected in the result. Google stated in its plea that (.....) result on the first rank was displayed together with 6 website links; therefore it was not displayed not with a single link after the update. With respect to this argument, even if it is possible to say that there is not an important difference in the number of links before or after (.....) update, it is understood that due to another update called (.....), there is a difference in the display of the results. It should be noted that the examples are used to show the differences in ranking created by algorithm changes rather than to detect the reach of the algorithms.

mynet		
15.07.2011		15.09.2011
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)	(.....)	(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)

(203) Google made (.....) algorithm change in (.....). Before that date when users search for “teknosa”, “(.....)” link was on the first two places on Google organic search result list and other links were e-commerce websites or social content providers. With (.....) algorithm change, “(.....)” website’s links maintained their positions but social content providers’ links were replaced by news websites’ links. When the same conditions were applied to “kliksa”, a change similar to “teknosa” was observed. Therefore, it was understood that (.....) algorithm made by Google in (.....) increased its value rate for news websites. In its plea, Google suggested that this assessment is not true and stated the following arguments: There were results related to Facebook before and after the update. The results related to news websites displayed with the said queries did not stem from the update but from (.....) on the said date. Among the results related to queries such as (.....) submitted to the Authority, there were not any news websites. In terms of those arguments, it should be noted that the tables in question are used to show the effects of the updates on search results rather than to detect which areas are affected by the updates.

İstanbul bilişim		
15.04.2013		15.06.2013
(.....)	(.....)	(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)

(205) When the word “arabam” was searched on Google, more than one link of a website completely different from the search word was displayed, different from “İstanbul bilişim” case. Accordingly, it is estimated that the weight and types of Google’s algorithm variables’ changed. In the plea, the following arguments were made: Even if a website’s name is not included in a query, its pages may be shown among the results of the query. “arabam” is not only a website name but it is a general expression, it is possible that the users searching for “arabam” is not looking for (.....) but for information for cars in general. The results displayed for (.....) on 6 June 2013, were the results of the pages displayed related to cars in (.....) as understood from the full URL’s of the pages cited. The examples in question were used to show the effects of the algorithm change on ranking.

arabam		
15.04.2013		15.06.2013
(.....)	(.....)	(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)

(206) Google made (.....) algorithm change in (date). Before (.....) update, when “hızlıal” and “akakçe” were searched separately on mobile devices, websites which were the same with the searched word were on the first rank in the Google organic search result list. Mostly social media websites were listed on other ranks. It is concluded that after the algorithm change, except for the first link, other links were listed according to their compatibility with mobile devices.

With (.....), ranking criteria for mobile devices, which are used more and more, became more determinant in Google search algorithm. It is stated in the plea that Google takes mobile compatibility into account for queries only on mobile devices, in another words, it does not take mobile compatibility into account for queries made on desktops. It is understood from Google’s response given in the preliminary inquiry period that the data sent show the ranking in search results related to searches on mobile devices. The tables below concerning the said ranking changes are related to mobile devices.

Hızlıal		
15.03.2015		15.05.2015
(.....)	(.....)	(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)

akakçe		
15.03.2015		15.05.2015
(.....)	(.....)	(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)
(.....)		(.....)

(207) Google made (.....) algorithm change in (date). Before (.....) algorithm change, when “ebay”, “tekzen” and “ykm” is searched separately, websites which were the same with the searched words were on the first rank in Google organic search result lists. Other links were mostly social media websites. Although the logic cannot be understood, there was a serious change in the ranking after the algorithm change.

their ranking might change places.

(209) Another claim under the scope of the file was that another method by which Google affected organic results ranking through algorithm changes was punishing websites by marking them as spam as a result of those changes. It was stated that Google's aim was to prevent websites that were not directly related to user search from being displayed on top of the ranking. However the practice might cause uncertainty for websites because an action which was not punished previously might be punished and be faced with serious sanctions after an algorithm change. Within this framework, in order to gain insight whether Google algorithms resulted in removing websites completely from search results, websites working in different sectors were asked whether their website pages were regarded as spam by Google. 43 out of 46 websites answered that Google did not regard any of their pages as spam. The explanations of undertakings whose website pages were regarded as spam are as follows:

- (.....): as the business model brings buyer and seller together, the contents in the website are created by users, especially sellers. Some of the content created by sellers may be included in black lists by Google. In this case, actions are taken to ensure that the seller removes the content on the website.
- (.....): websites seemed to be spam as a result of backlink attack by third parties. After Google was informed of the situation, a correction was made following the negotiations lasted for almost one year. The period should have been shorter.
- (.....): a page was detected by Google as spam, the problem was solved by removing the content in question.

(210) Consequently, with respect to approximately 93% of the undertakings, no pages were regarded as spam. Those who experienced spam problems mentioned about specific situations. Taking into account those facts, it is not possible to accept the allegation that Google's algorithm changes aim to remove websites from search result page.

(211) As stated under the section "The Nature of and Reasons for Algorithm Changes made by Google", some of the undertakings made the following comments: Especially Panda and Penguin are beneficial algorithm changes for users and websites because they allow websites with content of high quality to appear at upper ranks and prevent malevolent websites trying to manipulate search results. For instance before Penguin update, as malevolent websites became aware that the amount of links from a website to another was effective to appear at higher ranks, websites tried to manipulate Google algorithm for a long time by means of buying links and spam. Google lowered the ranks of websites manipulating links/detected spam with Penguin update. By means of Panda update, Google lowered the ranks of websites trying to manipulate search results by using copied content and producing content of poor quality. Following those updates, search result pages were cleared of malevolent websites and content in a sense. Those updates had rewarding effects for websites trying to provide content of good quality.

(212) It is concluded that the complainant had experienced losses in ranking and consequently in traffic due to Panda and Penguin updates because of the problems with its content, considering the opinions of undertakings together with the findings in

this section that removing websites from search results after detecting them as spam was exceptional.

(213) Another point stated under the scope of the file is that Google made an algorithm change to display organic results belonging to the same website in a larger place. Accordingly, in searches before March 27, 2018, Google showed the links of an undertaking and its competitors in a single result like in the figure below. This display spares more area to other websites and increases the possibility of competing undertakings' links to be on Google's first page. However, as a result of the algorithm change by Google, website links given together were displayed almost covering the whole front page, which negatively affected a website's ranking.

Figure 9: Displaying the links of a website together

Previous ranking display

The screenshot shows a search result for 'Sahibinden.com' on Google. The result is a large block containing a grid of categories. At the top, it says 'Sahibinden Satılık, Kiralık, Emlak, Oto, Alışveriş Ürünleri' and provides the URL 'https://www.sahibinden.com/'. Below this, there is a disclaimer: 'Bu içeriğin, görüş ve bilgilerin yanlışlık, eksiklik veya yasalarla düzenlenmiş kurallara aykırılığından sahibinden.com hiçbir şekilde sorumlu değildir. Sorularınız...'. A search bar with the text 'sahibinden.com sitesinden sonuçlar' and a magnifying glass icon is visible. The grid of categories includes: 'Otomobil' (İkinci el arabalar, sıfır satılık otomobil fiyatları ve teknik...), 'Emlak' (Emlak İlanları, Kiralık, Satılık Emlak Fiyatları Türkiye'nin ilan sitesi...), 'Vasıta' (Otomobil - Minivan & Panelvan - Ticari Araçlar - Motosiklet - ...), 'Konut' (Konut Fiyatları ve Emlak İlanları sahibinden.com'da), 'Arazi, SUV & Pick-up' (Nissan - Land Rover - BMW - Volkswagen - Ford - Jeep - Kia), 'Evcil hayvanıma yuva arıyorum' (Henüz Üye Değil Misiniz? Üyelerimize özel...), 'Arsa' (Arsa Fiyatları ve Kiralık, Satılık Emlak İlanları Türkiye'nin ilan...), 'İkinci El ve Sıfır Alışveriş' (İkinci El ve Sıfır Alışveriş Vitrin, Sigma 24-35 f... Dell Inspiron...), and 'Motosiklet' (Sahibinden motosiklet, satılık ikinci el ve sıfır motor fiyatları Türkiye...).

Figure 10: Displaying the links of the website separately

Current ranking display



(214) Taken into account CTR of the results displayed on the first screen and on the top of the first screen, a loss in ranking will result in a serious drop in traffic and user access to a website will be more unlikely. In light of the information submitted by undertakings, there is an exponential link between a website's rank in a search made on Google and the traffic amount to be taken. Within this context, a website displayed on the first row in ranking will take 40%, a website displayed on the second row will take 15% and a website on the third row will take 5% of the relevant search volume. As a result of the abovementioned algorithm change, in case an undertaking on the upper rows loses its position, the traffic loss will also be high.

(215) During the investigation period, it was found that as a result of the update "(.....)" made by Google in (.....), search results started to be displayed as "previous ranking display", shown above again. Therefore, it is concluded that the new display manner resolved the said concerns.

(216) In light of the information given, it is understood that algorithm changes made by Google affected organic ranking of some of the websites positively and some of them negatively and did not affect some of them at all; moreover, they did not result in the removal of a website because of spam in general. In addition, approximately one third of websites stated that the effect of algorithm changes on websites' ranking and traffic could not be measured because they were not informed about the date and content of algorithm changes, the position of competing websites, etc. It is concluded that algorithm changes create uncertainty with respect to undertakings' ranking.

I.4.2.1.3.The Claim That Lack of Information about Search Algorithm Changes Creates Significant Uncertainty in Organic Search Result Ranking and its Assessment

(217) Another claim to be analyzed under the file is that Google did not give information about algorithm changes. Google was asked whether it informed websites about algorithm changes and if not, the reasons for this. Google answered that it did not announce the details of algorithm changes generally and listed the reasons for this as follows:

- *“First, Google’s algorithms, whose intellectual property is owned by Google, are a reflection of its basic commercial values and developed as a result of considerable resources to improve search. Those algorithms are an integration of efforts, creativity and investments by the engineers of Google and enable Google to show better and more useful results compared to its competitors. If the information about its algorithms is disclosed, its competitors will copy Google’s technology and use its investments and intellectual property for free as a result.*
- *Second, if Google explains information about its algorithms, web sites [...] will show their pages more relevant than they are and those algorithms may be mistaken more easily. This will create seriously adverse effects on Google’s search quality and practicality as well as on users’ trust.*
- *Third, in order for websites to have a better ranking, they do not need to know the perfect technology behind Google’s search services. A website should have a design that attract and provide value to users in order to have a better ranking. To do this, websites should be designed not for Google but for users. The signals that Google use for ranking are only mediators to measure what users find relevant and practical. If a website tries to estimate Google’s ranking criteria and design the website within the framework of those criteria instead of consumers’ real needs both the website and Google’s search results will be harmed.*
- *Fourth, Google makes thousands of changes in its algorithms. This amount makes it impossible to announce and discuss the said changes. Google announces an algorithm change generally on Google Blog if it will to do so.*

(218) It is observed according to the reasons stated above that Google avoids announcing algorithms because Google does not want to explain its technology whose intellectual property it owns, wants to prevent manipulation of algorithms, websites need to be designed not for Google but for users and it is practically difficult to announce the changes because of their huge amount.

(219) In response to a request for detailed information about the factors affecting the announcement of algorithm changes, Google answered that whether the change would be announced or the time of the announcement depended on the evaluation of many different factors such as (i) (.....) (ii) (.....), (iii) (.....), (iv) (.....) and (v) (.....).

(220) There were cases when Google gave detailed information about certain updates. **Document 20/207-211**, which was obtained during the on-site inspection at

Google's premises, showed that in January 2018, Google announced the algorithm change called "Mobile Speed Update" to be launched in July 2018. The change would make website page speed as a ranking factor. Google stated that it announced in detail six months before that website speed would be used as a ranking factor and gave detailed information about how undertakings would comply with that change affecting their ranking in organic results because the update in question would not result in a manipulation in search results.

(221) Similarly, the e-mail included in **Document 22** states that a test will be made to determine whether (.....) will improve user experience in Google search results, the test may affect business partners with respect to organic traffic, therefore business partners should be informed thereof. It is inferred from the said documents that (.....). It is understood that Google could inform the parties to be affected by the change beforehand because the change in question would not result in a manipulation in search results.

(222) Under the scope of the file, Google was also asked whether it systematically announce algorithm changes that would not lead to the manipulation of search results. In the response letter, in summary, it is stated that

- *Google may not inform changes that will not create important effects (because it is unlikely that such announcement will be beneficial or informative) or announcement of which will not be useful for websites (changes that do not require an action by websites).*
- *Google makes hundreds of improvements and updates every year. In 2017 it conducted search quality tests more than (.....) that resulted in (.....) changes in its algorithms. Between 2011 and 2018, it launched approximately (.....) improvements. It is not reasonable or possible to announce so many changes. In cases where changes do not create serious effects on websites, due to a contrariwise approach, websites will be subject to too many unnecessary information related to Google search results ranking and face confusion.*
- *Instead of announcing every change/update, Google announces details about updates/improvements in cases where there is no risk of manipulation of search results, informing websites will be useful, and making an announcement will be reasonable.*

(223) It is inferred from Google's explanations that Google uses two filters basically for the change in questions while deciding to provide information about an algorithm update. First is whether the update will result in a manipulation risk by being used maliciously by websites to show themselves more relevant than they actually are. The second is whether the announcement of the update will be useful for websites even if there is not a manipulation risk. The second filter causes a more subjective selection. Thus, an announcement which is not actually useful for websites does not contribute to the uncertainty for websites.

(224) Within the framework of the file, websites from different sectors were requested information about whether Google informed them before/after algorithm changes

(through the company or public). Except for the few websites⁵² that answered that Google made the necessary announcement, most of the websites⁵³ stated that Google failed to inform them. In summary, based on the opinions, the following conclusions are drawn: Generally, Google does not provide information about algorithm changes before or after they are implemented. Moreover, it provides information about some of the major updates after they are implemented or confirmed changes estimated by third party softwares. It makes an announcement not directly to the websites effected/to be effected but through its blogs or social media accounts. In its answer, Google told that announcement of the changes may lead to manipulation of search results and there are huge amount of small and big changes so it is technically impossible to announce all of them. Considering the said statements of Google and undertakings' relevant statements, it is concluded that Google generally does not provide information about the changes it made or will made to search algorithm.

(225) Websites were requested opinion about the aim and effects of Google's failure to provide information about algorithm changes. About a half of 20 websites rendering opinion stated that they did not know the reason why they were not informed about the algorithm changes and others stated that the reason was to prevent manipulation of search results by websites of lower quality.

(226) Depending on this opinion stated by websites, it is concluded that Google's argument that it does not provide information about changes that will lead to manipulation of search results is acceptable. Another issue to be analyzed is the importance of being informed for websites.

(227) Within this framework, websites were asked for their opinion about the effects of being/not being informed about algorithm changes. It is understood from the opinions that except for few websites which thinks that being informed is not necessary, generally, websites regard being informed about algorithm changes as important to prevent uncertain effects on parameters such as traffic, ranking, etc. by complying with the features aimed by the algorithm changes. Consequently, it will be reasonable if Google continues its announcements related to search algorithms which will affect websites that are made in a way to prevent manipulation of search results, by preventing concerns that some websites will take actions to manipulate search results, as stated by both Google and websites.

(228) Depending on Graph 10 and Graph 11 included in the section "The allegation that algorithm changes increased the dependency on text ads and the assessment of the allegation", it is not possible to establish a direct correlation between algorithm changes and dependency on AdWords; in another words, to reach a clear finding that the uncertainty created by algorithm changes directly increases the dependency on AdWords. Graph 10 and Graph 11 shows the relation between main algorithm changes and AdWords ad traffic and AdWords advertisement revenues.

(229) Considering the information given above as a whole, the following opinions stated by both Google and websites are reasonable: Algorithm changes that have the ability to cause manipulation of search results are not announced. It is not reasonable or possible to announce thousands of algorithm changes will not lead to manipulation of search results and that will not create significant effects on websites. Moreover, it is not possible to conclude that algorithm changes increases websites' dependency on

⁵² (.....)
⁵³ (.....)

AdWords.

I.4.2.1.4. The Claim That Algorithm Changes Increased The Dependency On Text Ads And Its Assessment

(230) The claim that algorithm changes push websites to text ads which are more reliable by causing uncertainty on organic rankings is analyzed. First, Google stated in relation to algorithm changes that it constantly follows the quality of search results and aims to raise its standards; that is the reason for the said changes. The reasons for not making announcements are stated above.

(231) On the other hand, information was requested from websites using text ads about how they are affected and how they deal with algorithm changes.

(232) Within this framework, websites were asked whether Google's updates concerning search algorithms created uncertainty with respect to traffic from Google and if so what their methods for overcoming such uncertainty are. 36% of the websites answered that they do not have any methods since algorithm changes do not create any effects on traffic from Google whereas 64% have methods to deal with the effects of the algorithm changes. 61% of the websites stated that they are trying to comply their websites with algorithm changes by making researches in order to resolve the effects of the algorithm changes.

(233) Those websites which said that they prefer to use AdWords ads stated that the results of their methods may take a long time and there is a risk of not yielding any results therefore the most efficient and predictable solution is to spare more advertisement budget and protect the traffic amount.

(234) Within the scope of the file, Google was requested information about the revenue and traffic information obtained from AdWords services during 2011-2019 period. The graph below shows the breakdown of AdWords traffic and revenues in time together with the major updates to search algorithms.

20-49/675-295

Graph 10: Google's AdWords traffic volume in Turkey and Major Updates made (2011-2019)

(.....TRADE SECRET.....)

Source: Information acquired from Google and other undertakings

Graph 11: Google's AdWords revenues in Turkey and Major Updates made (2011-2019)

(.....TRADE SECRET.....)

Source: Information acquired from Google and other undertakings

(235) As understood from the graphs above, Google's AdWords traffic increased nearly (.....) fold whereas AdWords revenues increased by (.....) fold. Although it is not sound to establish a correlation relation between algorithm changes and the dependency on AdWords based on those tables above, it is thought that algorithm changes and AdWords ads have contrary effects with respect to predictability of the traffic from Google. While algorithm changes cause an uncertainty with respect to the said traffic, AdWords ads are used by some undertakings as one of the methods for coping with that uncertainty.

1.4.2.2. Assessment of the claims related to text ads

(236) Within the scope of the file, there are allegations that the way and the amount of AdWords ads used by Google creates negative effects in the market, Google increased websites' dependency on Google by means of applications that lead to using brand-based advertisements, and giving text ads in Google may affect organic ranking.

(237) Thus, within the scope of the file, AdWords ads having a text ad nature, provided by Google should be analyzed from four aspects:

- *Text ads are displayed at the top of the search result page in increasing frequency, which negatively affects organic traffic.*
- *Google causes ambiguity about the advertisement nature of text ads.*
- *Google promoted placing ads with brand names, resulting in websites allocating larger ad budgets to Google.*
- *Lastly, text ads given by websites affect their ranking in organic results.*

1.4.2.2.1. Assessment Of The Claim That Text Ads Are Displayed At The Top Of The Search Result Page In Increasing Frequency, Which Negatively Affects Organic Traffic.

(238) In websites' answers to information requests within the file, they stated that Google displays its own products and advertisement services more frequently, which affects especially websites trading by means of the traffic coming from Google.

(239) The undertakings in the sector argue that fold area is reserved for ads more and more. This is a threat for all websites in the digital environment and affects the whole internet ecosystem. It creates a perception that "if you want to do business you have to give advertisement to Google".

(240) Another argument is that AdWords ads being at the top of the search results is a threat especially for small players. Firms without budgets or with small budgets are downsizing and facing a vicious circle because they cannot give advertisements since they are small and they are downsizing because they cannot give advertisements. The most important part of Google's search services, which is essential, are taken by big companies that spare larger budgets every year and undertakings that take higher traffic with higher budgets. Thanks to their wide teams and continuous investments in this area, they can gain better conversions. Small players' possibility to appear in organic and paid results is decreasing. Rather than large undertakings that have to spare larger budgets, it is Google who wins because the dependency on its products and its revenues are increasing. It is emphasized that Google ads are a competition factor rather than a choice.

(241) Another issue stated by undertakings is that increasing dependency on AdWords is creating effects on advertisement budgets of websites gradually. This budget is related to not only the dependence on AdWords but also the increase in the unit costs of AdWords ads. In one example, it is seen that while cost per click is (.....) kurush in 2011, it was (.....) TL in 2018. According to another example, although the traffic volume from AdWords remains the same, Google advertisement expenditure increases by (.....) in 2018 compared to the previous year. This fact is the reason why revenues are increasing more rapidly and stably in the graphs showing AdWords' volume and revenues.

(242) In its plea, Google argued that it provides an advertisement service by means of text ads. However, as stated above, from the eye of a user making a search over Google and clicking a text ad or an organic result, the aim is to reach the relevant pages on the websites related to its query. From the perspective of a website, the aim of being displayed among Google search results is to reach a user with its pages relevant to their query. Therefore, organic links on the general search page are competing with text ads. Both link types are designed to provide the same function to a user with respect to connecting to the website relevant to the query, area covered, way of displaying, etc. Organic links trying to compete with text ads are pushed out of the market as Google is directing websites trying to gain traffic from general search result page, which is vital for them, to give more text ads.

(243) In light of those explanations, in line with the allegations mentioned above, websites' position vis à vis the positioning and presentation of text ads on general search result pages will be analyzed.

(244) First, it is important to analyze under what circumstances and to which end Google displays advertisement products. Google stated that it does not limit text ads according to query type, category or sector.⁵⁴ According to the information in the file, whether Google displays a search ad in search results or not depends on the content of a user's search. Whether there is an ad related to the query is analyzed. At this point Google stated that it "aims to adopt ads to provide the relevant results to users and provide a better experience for advertisers". Therefore, instead of providing the most relevant and qualified result as it does for its organic results, Google aims to display ads in the most optimal way to the user while providing ad services.

(245) In light of the explanations above, the importance of text ads will be analyzed for websites. It is understood that text ads are displayed regardless of the sector. The analysis looks into the number of ads on the general search result page, the importance of Google and text ads with respect to the source of traffic for websites and the increase in AdWords traffic.

⁵⁴ It is stated that ads displayed on Google should comply with publicly available Google Ads policies and those policies aim to ensure ads' compatibility with the effective laws and provide a reliable and positive experience to users. For instance the ads promoting the following are prohibited according to the relevant policies: (i) fake or dangerous products or services (pleasure inducing drugs, psychoactive substances, equipment enabling use of drugs; guns, munitions, explosives and firework or tobacco products) (ii) inappropriate content (racism, torture to animals, murder, self-harm, robbery and blackmail) or (iii) fraudulent conduct (hacking software, services for forged documents or plagiarism). Moreover, it is also stated that Google ad policies restricts certain features and contents to comply with local regulations; gambling, medicine advertisements and political content are given as examples.

Maximum and Average Number Of Ads

(246) The table below shows the average number of text or product ads displayed at the top and the bottom on a result page including a text or product ad in Turkey by Google.

Table 13: The average number of text or product ads displayed by Google

	The average number of text or product ads displayed at the top or bottom of the page based on each search query including at least one text or product ad ⁵⁵ .		
	Desktop	Mobile ⁵⁶	Desktop and Mobile
Top	(.....)	(.....)	(.....)
Bottom	(.....)	(.....)	(.....)
Source: Google			

(247) It is stated that the average number of ads might exceed the maximum limits stated by Google because more than one ad can be displayed in that area as product ads can be displayed on a scrollable horizontal row.

(248) Moreover Google was requested to submit the average number of text ads on the basis of search result pages (first, second, etc.). The breakdown with respect to results including at least one top or bottom text ad is shown in the table below:

⁵⁵ Google stated that the data belongs to the 12-month period between November 2017 and October 2018 in Turkey on general search result pages.

⁵⁶ It is stated that tablets are included in mobile.

February 13, 2019	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
March 13, 2019	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
April 10, 2019	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
May 8, 2019, Wednesda y	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
July 12 2019 Wednesday	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
July 10 2019 Wednesday	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Source: Google																				

(249) With respect to text ads displayed at the top, it is understood from the table that Google mostly displays advertisements on the first page and it displays text ads at similar amounts on other search pages. With respect to texts at the bottom, the average number of advertisements is lower on the first page compared to other pages. It is thought that this is partly because of Shopping (product) ads that are likely to be displayed at the bottom of the first page. The graph below explains further the course of the average number of text ads displayed at the top and the bottom of the first and the second page shown in the table.

Graph 12: The average number of text ads displayed at the top and at the bottom of the first and the second page per query with respect to queries with at least on text ad.

(.....TRADE SECRET.....)

Source: Information acquired from the undertakings

(250) It is seen from the graph above that during the period in question, average number of text ads displayed at the top of the first page is increasing whereas the average number of text ads displayed at the bottom of the page is decreasing. At the beginning of 2016, the number of top text ad per query is (.....) whereas in July 2019 it climbed up to (.....). The graph below shows the change in the average number of ads displayed at the top and at the bottom of search results without making any distinctions on the basis of page. Considering two graphs together, it is seen that text ads displayed at the top of the first page consists an important part of the total text ads and their number is increasing. The average total number of text ads displayed at the top per query in queries with at least one text ad grew (.....)% during the period, climbing up from (.....) to (.....)

Graph 13: The average number of text ads displayed at the top and at the bottom per query with respect to queries with at least on text ad.

(.....TRADE SECRET.....)

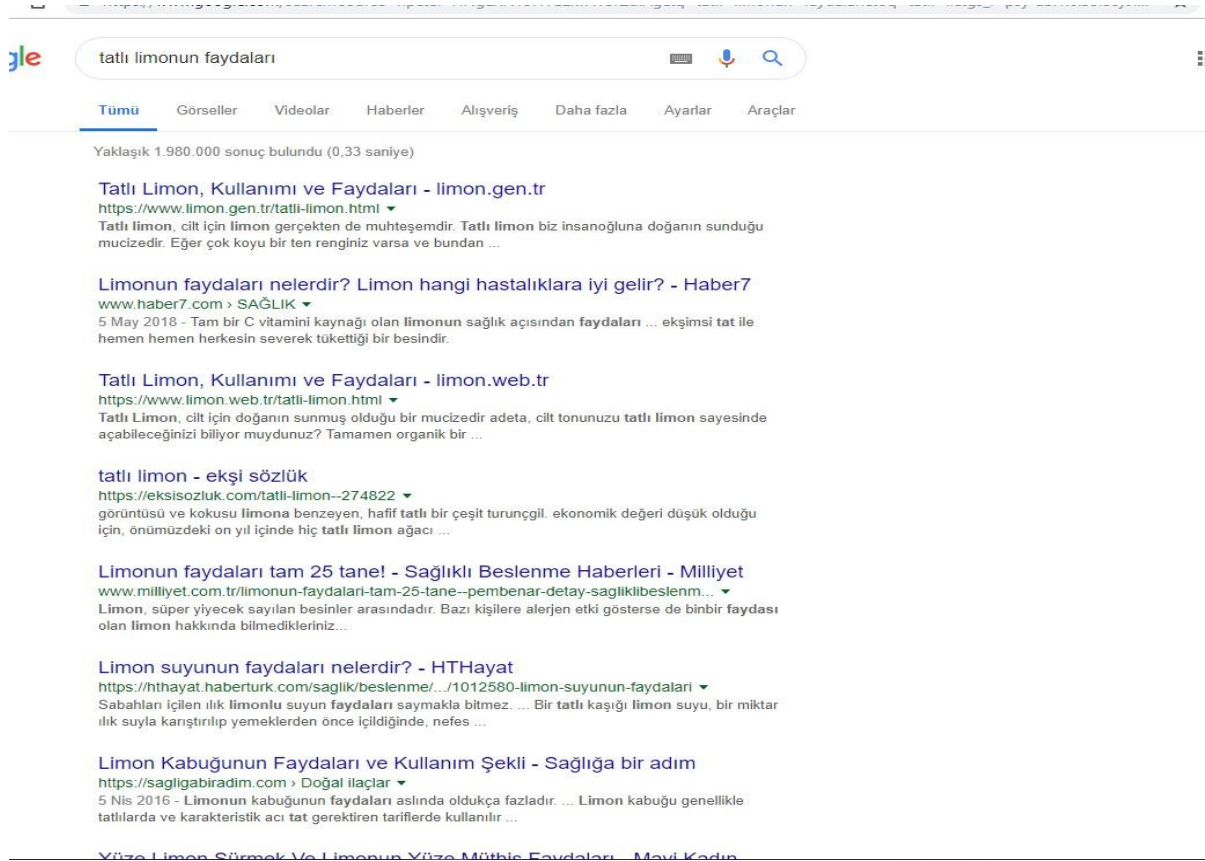
Source: Information acquired from the undertakings

(251) Moreover, Google stated that the maximum area spared for AdWords ads at the top of the general search page corresponds to (.....) ads and some part of that area is used for product ads. In November 2015, this maximum ad number was raised from (.....) to (.....); however there was not an increase in the vertical area; ads were placed by shrinking ad size. The maximum area spared for AdWords ads at the bottom of Google search page corresponds to (.....) AdWords ads. It is understood from the sample searches on Google that the said limit applies for each page. The limits apply for desktop and mobile devices including tablets. However, it is seen that the maximum

number for the top is on average smaller than average AdWords number.

(252) It is necessary to look at how many results can fit in the first page in different devices in order to assess average and maximum numbers more clearly. The screenshot of the first screen displayed on desktop for “tatlı limonun faydaları” (the benefits of sweet lemon) search is given below to see how many organic results appear in a query without ads.

Figure 11: Screenshot for the first screen displayed on desktop for a query without AdWords ads.



(253) The screenshot for the results of the same query on laptop is:

Figure 12: Screenshot for the first screen displayed on laptop for a query without AdWords ads.



tatlı limonun faydaları



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Yaklaşık 2.010.000 sonuç bulundu (0,30 saniye)

Tatlı Limon, Kullanımı ve Faydaları - limon.gen.tr

<https://www.limon.gen.tr/tatli-limon.html>

Tatlı limon, cilt için limon gerçekten de muhteşemdir. Tatlı limon biz insanoğluna doğanın sunduğu mucizedir. Eğer çok koyu bir ten renginiz varsa ve bundan ...

Tatlı Limon, Kullanımı ve Faydaları - limon.web.tr

<https://www.limon.web.tr/tatli-limon.html>

Tatlı Limon, cilt için doğanın sunmuş olduğu bir mucizedir adeta, cilt tonunuzu tatlı limon sayesinde açabileceğinizi biliyor muydunuz? Tamamen organik bir ...

Limonun faydaları nelerdir? Limon hangi hastalıklara iyi gelir? - Haber7

www.haber7.com > SAĞLIK

5 May 2018 - Tam bir C vitamini kaynağı olan limonun sağlık açısından faydaları ... ekşimsi tat ile hemen hemen herkesin seyerek tükettiği bir besindir.

tatlı limon - ekşi sözlük

<https://eksisozluk.com/tatli-limon--274822>

görüntüsü ve kokusu limona benzeyen, hafif tatlı bir çeşit turuncgil. ekonomik değeri düşük olduğu için, önümüzdeki on yıl içinde hiç tatlı limon ağacı ...

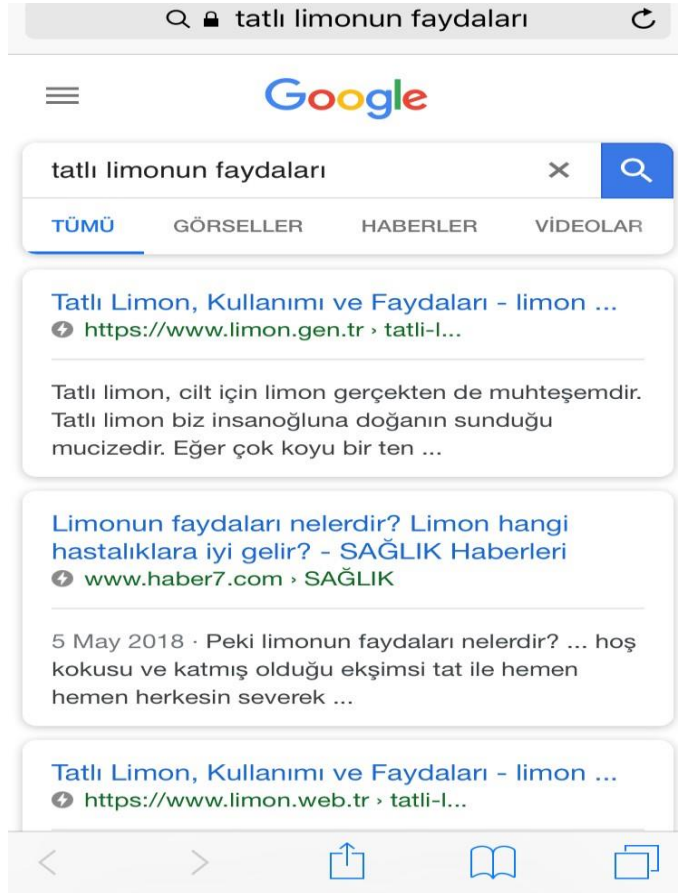
Limonun faydaları tam 25 tane! - Sağlıklı Beslenme Haberleri - Milliyet

www.milliyet.com.tr/limonun-faydaları-tam-25-tane--pembenar-detay-sagliklibeslenm...

Limon, süper yiyecek sayılan besinler arasındadır. Bazı kişilere alerjen etki gösterse de binbir faydası

(254) The result displayed on the first page on mobile phone screen for an average size (i-phone 7) is:

Figure 13: Screenshot for the first screen displayed on mobile phone for a query without AdWords ads.



(255) It is seen from the figures that in a query without AdWords ads or Google's other vertical products or services, there are respectively seven, five and three results on desktop, laptop and mobile phone screens. Therefore, four advertisements in the first page means that almost 60% of desktop screen, 80% of laptop screen and 100% of mobile phone screen is covered.

(256) On the other hand CTR of Google search results is decreasing significantly from top to bottom. Several SEO firms made studies about CTRs of Google search results according to ranking. According to a study by MOZ in 2014, the organic results displayed at the first five rows in the search results take 67.60 % of all clicks⁵⁷. CTRs according to position, measured by the said undertaking are given below:

⁵⁷ MOZ, "Google Organic Click-Through Rates in 2014", <https://moz.com/blog/google-organic-click-through-rates-in-2014> Accessed 25.11.2019

Figure 14: CTRs according to Google search results⁵⁸



Source: MOZ, "Google Organic Click-Through Rates in 2014", <https://moz.com/blog/google-organic-click-through-rates-in-2014> Accessed 12.11.2019.

(257) According to the figure, the results displayed between 6th and 10th places in ranking can take only 3.73% clicks; the results on the second and third pages can take only 5.59% in total.

(258) The graph below shows CTRs according to ranking in September 2019:

Figure 15: Average CTRs according to ranking in Google search results (September 2019)⁵⁹



Source: <https://www.advancedwebranking.com/ctrstudy/>, Accessed 12.11.2019.

(259) The figure above shows that click through rate calculated monthly for the result

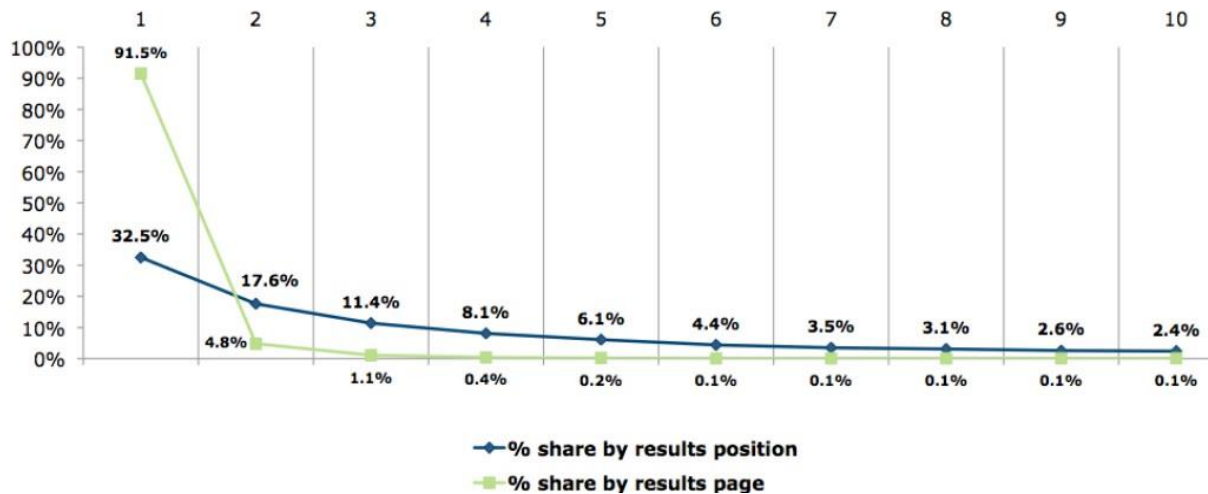
⁵⁸CTR is the abbreviation for "Click through rate" "Exact position" shows the place in ranking.

⁵⁹ The said rates are calculated using statistics belonging to 11.762.160 search words and 108.664 websites.

on the first row is 31.43% and the rate for the result on the second place falls back to 16.97%.

(260) The figure below shows the findings about the effects of the ranking in Google general search results and the page where the result is displayed on click through rates.

Figure 16: Average click through rates according to the positions of the results on Google’s first page in ranking and the page where the result is displayed (2013)



Source: Chitik talks of the Value of Google Search Result Positioning (2013) <https://www.marketingcharts.com/charts/chitika-percentage-traffic-by-google-search-result-position-page-june2013>, Accessed 12.11.2019.

(261) It is understood from the figure above that the first page of Google takes 91% of the clicks related to a query whereas the results on the second page can only take 4.8% of the clicks. Similar to the studies mentioned above, this study also states that the result at the top takes 32.5% of the clicks and the first five results at the top takes 75.7% of the clicks.

(262) In addition the article “Search Behavior and Why Ranking Above the Fold Matters”, which the Commission refers to in its Shopping decision, emphasizes that a user making a search mostly clicks a link above the fold (generally the first five results) and click through rates of results that require scrolling down is much lower. Moreover, it is said that the said effect is bigger in the mobile channel where above the fold area is narrower.⁶⁰

(263) Thus, considering the studies mentioned above and the number of text ads of Google together, it is understood that Google’s text ads are placed in a considerable amount on the most valuable part of the most valuable page.

(264) The presentation in the Document 20/88 includes (.....) ad samples that can be used. It is seen that (.....) ads cover a wider area compared to other word based advertisement types. Therefore, the concerns related to the above the fold area will be worsen in this ad type.

Figure 17: Different reactive search advertising examples

⁶⁰ 60 Smith, J. (2008), “Search Behavior and Why Ranking Above the Fold Matters”, <http://www.seodesignsolutions.com/blog/articles/search-behavior-why-ranking-above-the-fold-matters/> Accessed 12.11.2019.

(.....TRADE SECRET.....)

General Course of Text Ads and Organic Ads

(265) It is important to understand the course of text ads and organic traffic in time to analyze the allegation addressed by the file. Within this framework, the table below shows both traffic types on the basis of the number of clicks monthly during 2011-2019 period:

Table 15: The proportion of text ads to organic traffic

Month	Clicks on text ads on Google general search results page in Turkey	Organic clicks in Turkey	The proportion of text ads to organic traffic (%)
Jan. 11	(.....)	(.....)	(.....)
Feb.11	(.....)	(.....)	(.....)
Mar. 11	(.....)	(.....)	(.....)
Apr. 11	(.....)	(.....)	(.....)
May 11	(.....)	(.....)	(.....)
June 11	(.....)	(.....)	(.....)
July 11	(.....)	(.....)	(.....)
Agu. 11	(.....)	(.....)	(.....)
Sep. 11	(.....)	(.....)	(.....)
Oct. 11	(.....)	(.....)	(.....)
Nov. 11	(.....)	(.....)	(.....)
Dec. 11	(.....)	(.....)	(.....)
Jan. 12	(.....)	(.....)	(.....)
Feb. 12	(.....)	(.....)	(.....)
Mar. 12	(.....)	(.....)	(.....)
Apr. 12	(.....)	(.....)	(.....)
May 12	(.....)	(.....)	(.....)
June 12	(.....)	(.....)	(.....)
July 12	(.....)	(.....)	(.....)
Agu. 12	(.....)	(.....)	(.....)
Sep. 12	(.....)	(.....)	(.....)
Oct. 12	(.....)	(.....)	(.....)
Nov. 12	(.....)	(.....)	(.....)
Dec. 12	(.....)	(.....)	(.....)
Jan. 13	(.....)	(.....)	(.....)
Feb. 13	(.....)	(.....)	(.....)
Mar. 13	(.....)	(.....)	(.....)
Apr. 13	(.....)	(.....)	(.....)
May 13	(.....)	(.....)	(.....)
June 13	(.....)	(.....)	(.....)

July 13	(.....)	(.....)	(.....)
Agu. 13	(.....)	(.....)	(.....)
Sep. 13	(.....)	(.....)	(.....)
Oct. 13	(.....)	(.....)	(.....)
Nov. 13	(.....)	(.....)	(.....)
Dec. 13	(.....)	(.....)	(.....)
Jan. 14	(.....)	(.....)	(.....)
Feb. 14	(.....)	(.....)	(.....)
Mar. 14	(.....)	(.....)	(.....)
Apr. 14	(.....)	(.....)	(.....)
May 14	(.....)	(.....)	(.....)
June 14	(.....)	(.....)	(.....)
July 14	(.....)	(.....)	(.....)
Agu 14	(.....)	(.....)	(.....)
Sep. 14	(.....)	(.....)	(.....)
Oct. 14	(.....)	(.....)	(.....)
Nov. 14	(.....)	(.....)	(.....)
Dec. 14	(.....)	(.....)	(.....)
Jan. 15	(.....)	(.....)	(.....)
Feb. 15	(.....)	(.....)	(.....)
Mar. 15	(.....)	(.....)	(.....)
Apr. 15	(.....)	(.....)	(.....)
May 15	(.....)	(.....)	(.....)
June 15	(.....)	(.....)	(.....)
July 15	(.....)	(.....)	(.....)
Agu. 15	(.....)	(.....)	(.....)
Sep. 15	(.....)	(.....)	(.....)
Oct. 15	(.....)	(.....)	(.....)
Nov.15	(.....)	(.....)	(.....)
Dec. 15	(.....)	(.....)	(.....)
Jan. 16	(.....)	(.....)	(.....)
Feb. 16	(.....)	(.....)	(.....)
Mar. 16	(.....)	(.....)	(.....)
Apr. 16	(.....)	(.....)	(.....)
May 16	(.....)	(.....)	(.....)
June 16	(.....)	(.....)	(.....)
July 16	(.....)	(.....)	(.....)
Agu. 16	(.....)	(.....)	(.....)
Sep. 16	(.....)	(.....)	(.....)
Oct. 16	(.....)	(.....)	(.....)
Nov. 16	(.....)	(.....)	(.....)
Dec. 16	(.....)	(.....)	(.....)
Jan. 17	(.....)	(.....)	(.....)
Feb. 17	(.....)	(.....)	(.....)
Mar. 17	(.....)	(.....)	(.....)
Apr. 17	(.....)	(.....)	(.....)
May 17	(.....)	(.....)	(.....)

June 17	(.....)	(.....)	(.....)
July 17	(.....)	(.....)	(.....)
Agu. 17	(.....)	(.....)	(.....)
Sep. 17	(.....)	(.....)	(.....)
Oct. 17	(.....)	(.....)	(.....)
Nov. 17	(.....)	(.....)	(.....)
Dec. 17	(.....)	(.....)	(.....)
Jan. 18	(.....)	(.....)	(.....)
Feb. 18	(.....)	(.....)	(.....)
Mar. 18	(.....)	(.....)	(.....)
Apr. 18	(.....)	(.....)	(.....)
May 18	(.....)	(.....)	(.....)
June 18	(.....)	(.....)	(.....)
July 18	(.....)	(.....)	(.....)
Agu. 18	(.....)	(.....)	(.....)
Sep. 18	(.....)	(.....)	(.....)
Oct. 18	(.....)	(.....)	(.....)
Nov. 18	(.....)	(.....)	(.....)
Dec. 18	(.....)	(.....)	(.....)
Jan. 19	(.....)	(.....)	(.....)
Feb. 19	(.....)	(.....)	(.....)
Mar. 19	(.....)	(.....)	(.....)
Apr. 19	(.....)	(.....)	(.....)
May 19	(.....)	(.....)	(.....)
June 19	(.....)	(.....)	(.....)
July 19	(.....)	(.....)	(.....)
Source: Information submitted by Google			

(266) The following graphs might be useful to understand better the course of the values given in the table above in time:

Graph 14: [Clicks on text ads in Google general results page in Turkey](#)

(.....TRADE SECRET.....)

Source: Information submitted by Google

Graph 15: [Clicks on organic links in Google general results page in Turkey](#)

(.....TRADE SECRET.....)

Source: Information submitted by Google

(267) It is seen in the graphs that the number of clicks on Google text ads is generally increasing in a stable and rapid way. Among the reasons for the fall in the text ad increasing rate in 2018 are the economic situation in our country and the importance given to Shopping ads. However, there was not a similar increasing rate or stable increase in organic traffic. The course of organic traffic between 2015 and 2016 is horizontal and after 2016 organic traffic has a general tendency to decrease. Moreover, there are more fluctuations in the organic traffic whereas AdWords' traffic volume is less variable.

(268) On the other hand, the table above shows the proportion of text ads to organic traffic and analyzes how the two traffics are moving. As seen from the table, the said

rate was (.....) % in 2011 and climbed up over (.....)% as of 2019. Taking into account the fact that e-commerce is increasing rapidly in Turkey, the high growth of text ads in Google general search result page leads to serious concerns about the survival of websites with organic links. Google is monetizing its general search result page more and more for e-commerce sector which is working especially by means of the traffic coming from the internet. This increases the dependency of the players in the sector on Google. Beside the course of the text ads, the graph below shows the course of the clicks on Google's another advertisement type, Shopping, in other words, product ads:

Graph 16: Clicks on product ads in Shopping Unit

(.....TRADE SECRET)

Source: Information submitted by Google

(269) As seen from the graph, in 2008 AdWords ads lost speed and Google focused on Shopping ads.

(270) In today's digitalized world, users use Google's general search results more and more. It is possible to see the increasing dependency of users in Turkey on Google on the graph below:

Graph 17: Total Google Search Queries in Turkey

(.....TRADE SECRET.....)

Source: Information submitted by Google

The Shares of Traffic from Google in Websites' Total Traffic

(271) Within the scope of the file, beside the general course of text ads traffic and organic traffic, the weight of the traffic from Google in e-trade websites' traffic sources (Google, other search engines, comparison shopping websites, social media, mobile app, advertisement traffic from other websites, direct clicks and other) is analyzed in order to understand Google's importance as a source of traffic. This analysis is looking at how much the websites are dependent on Google and whether there are alternative sources.

(272) In this framework, Google was requested to provide the names of websites that obtained the highest AdWords ad traffic in 2018 and 90% of the total AdWords ad traffic in the said year and the total annual AdWords traffic of each website. Based on the response given, data was requested from the websites that gained the most traffic, traffic at medium scale and relatively the lowest traffic from the list of the said websites. The aim of this method is to understand the opinions related to the service in question and actual situations of firms of different size that have been informed about Google text ads and experienced it.

(273) Depending on the traffic data, taking into account the average traffics of all undertakings, with respect to 2019 (January-August period), those with an average monthly traffic of more than (.....) million are enterprises with large traffic, lower than (.....) and higher than (.....) are with medium-sized traffic, lower than (.....) are with

small-sized traffic. Moreover, monthly traffic data pertaining to 2011-2019 was requested from undertakings. However, some of the undertakings provided data pertaining to a shorter time.⁶¹ Therefore, in order to use more data, an analysis is made based on the data provided by the undertakings that could provide data related to 2013 and 2019.

(274) The graph below shows the shares of all traffics (organic and ads) of undertakings with large, medium and small scale-traffic, separately, from Google in total traffic amounts according to the number of logins.⁶² The graphs are prepared in different types and the changes are observed separately on an undertaking basis and as a whole for all of the undertakings:

Graph 18: The share of traffic from Google in large size websites' traffic (%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 19: The share of traffic from Google in large size websites' traffic (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 20: The share of traffic from Google in medium size websites' traffic (%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 21: The share of traffic from Google in medium size websites' traffic (Cumulative -%)

⁶¹ Within the scope of the file, (.....) and (.....) websites are regarded as websites with large scale traffic but the said websites provided data as of June 2014 and January 2014 respectively thus they are not included in the graph below. Similarly (.....) and (.....) websites are regarded as websites with medium scale traffic but the said websites could not provide data for 2013 and before thus they are not included in the graph below.

⁶² (.....) stated that there are measuring deficiencies for the data before October 2014. Moreover, (.....) stated that it changed its measuring method as of March 2019. It is seen from (.....) data that the traffic coming from Google's sources is increasing proportionally after the said change.

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 22: The share of traffic from Google in small size websites' traffic (%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 23: The share of traffic from Google in small size websites' traffic (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

(275) First, it is seen on the graphs above that Google has a very important share in the traffic of all undertakings with large, medium and small scale traffic. Second, the share of the traffic from Google in all traffic sources of medium and small size undertakings is, in a general sense, higher than that of websites with large scale traffic (this does not apply for all undertakings). When the data provided by the undertakings is analyzed, it is understood that this is because large size websites, which has a specific brand value and user base, can obtain traffic directly and from mobile application sources. However, focusing on their traffics, the share of the traffic obtained from Google by Gittigidiyor, Hepsiburada, Morhipo, Nesine, N11, Trendyol and Sahibinden in their total traffics has an average share in 2019 (January-August) %(.....), %(.....), %(.....), %(.....), %(.....), %(.....), %(.....)% respectively. The said source is the largest traffic source for (.....), (.....), (.....) and (.....). (.....), which is losing its traffic and market share, obtained(.....), (.....) %(.....), (.....) traffic from mobile application in the said period and mobile application is the largest whereas Google is the second largest source of traffic for (.....) undertakings.

(276) The table below shows the proportional breakdown of the traffic from Google in total traffics in 2019 (January-August) belonging to 32 websites from which data was requested and usable data was obtained:

Table 16: The share of the traffic from Google in total traffic - Breakdown of undertakings

The share of the traffic from Google in total traffic	The number of undertakings	Breakdown %
< 40%	(.....)	(.....)
%40<-<%60	(.....)	(.....)
%60<-<%70	(.....)	(.....)
%70<-<%80	(.....)	(.....)
>%80	(.....)	(.....)
Total	32	100
Source: Information submitted by the undertakings		

(277) The table above shows that (.....) % of the said undertakings obtained more than 60% of their traffics in the first eight months of 2019 from Google’s channels.

(278) The data above shows that, even for the websites with the largest traffics, under the current circumstances, Google is such a big source of traffic that it cannot be substituted by other sources and it is vital for undertakings to obtain traffic.

The share of Google organic traffic in websites’ total traffic

(279) The graphs below shows the share of organic traffics from Google belonging to websites with large, medium and small sale traffic separately according to the number of logins. The graphs are prepared in different types and the changes are observed separately on an undertaking base and as a whole for all of the undertakings:

Graph 24: Large size websites’ organic traffic rate (%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 25: Large size websites’ organic traffic rate (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 26: Medium size websites’ organic traffic rate (%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 27: Medium size websites’ organic traffic rate (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 28: **Small size websites' organic traffic rate (%)**

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 29: **Small size websites' organic traffic rate (Cumulative -%)**

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

(280) It is understood from the graphs above that the share of organic traffic in the total traffics of undertakings with large and medium size is decreasing in general. With respect to undertakings with small size traffic and with a relatively more limited advertisement budget, the organic traffic rates are horizontal.

(281) At this point, it is important to follow the course of AdWords and other Google traffics to understand where the traffic from organic is moving.

The Shares of Google AdWords Traffic in Websites' Total Traffic

(282) The graphs below shows the share of AdWords traffics belonging to websites with large, medium and small size traffic separately from Google according to the number of logins. The graphs are prepared in different types and the changes are observed separately on an undertaking base and as a whole for all of the undertakings:

Graph 30: **AdWords Traffic Rates of Large Size Websites (Cumulative -%)**

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 31: **AdWords Traffic Rates of Large Size Websites (Cumulative -%)**

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 32: **AdWords Traffic Rates of Medium Size Websites (%)**

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 33: AdWords Traffic Rates of Medium Size Websites (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 34: AdWords Traffic Rates of Small Size Websites (%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 35: AdWords Traffic Rates of Small-sized Websites (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

(283) First of all, it is understood from the graphs above that concerning firms operating in e-trade sector and mostly engaged in product sales with large traffic, the share of traffic from text ads in total traffic has decreased. Second, it is understood that in the traffic of the websites under different categories with middle-sized traffic, text ads have gained weight. Lastly, text ad traffic rates of websites with small-sized traffic have relatively followed a horizontal course. On the other hand, there are undertakings where the said rate increased or decreased during the periods in the graphs.

(284) In its written plea, Google argues that AdWords is an opportunity for being recognized for especially small players. Some of the players in the sector also stated that small players have the opportunity to move to higher ranks in a short time thanks to text ads. However, as seen in the graphs, although they have relatively less traffic, small players do not have the possibility to increase the traffic from ads at the same rate as the ad traffic of middle-sized firms even in such a limited traffic. Especially in highly competitive queries, small players, who join the same tender as large and medium-sized firms, cannot be expected to budget for as much as their competitors.

Indeed some of the websites that were requested information brought up this issue. The examples are given below:

“Several sources have verified that the click through rate of the top link in a search in search engines is higher. Therefore, if you cannot go to higher ranks to have traffic in a specific query, there is an opportunity to have traffic from there by means of giving ads as a company. ...on the other hand, those firms which can allocate larger budget to marketing more at this point have more traffic from this source. Especially in order to provide traffic from highly competitive word groupsto the website, giving ads may be expensive, so this may create a disadvantage for small-sized firms.”

“The fact that the first four results in searches made through mobiles are absolutely belonging to undertakings that give advertisement prevents many small and large size firms from being in higher ranks without spending a considerable budget. Since Google AdWords is an advertisement platform working through auction, the advertiser who offers the highest bid is placed at upper ranks.”

“Competition affects costs per click. It can cause small-sized firms being shown less in search results compared to large scale firms in highly competitive product groups.”

“Placing AdWords ads in search results increase competition to certain extent. However advertisement costs spent to be displayed in keywords where ranking is lost may increase. Therefore it is necessary to have large budgets and make large expenses to be leading in competition.”

“Although it is becoming more unlikely for small players to advertise parallel to the investment costs, this is not peculiar to Google, it is the same in digital and traditional media. For instance, during TV prime time period which has limited ad space, the possibility for small players to give ads has disappeared over the years. What is important here is to label and differentiate ads clearly.”

(285) As understood from the issues stated by the sector players, although text ads enable small players to be displayed at higher ranks, this possibility is very limited due to budget constraint for small players who join the same tender with big players and consequently text ads become disadvantageous for small players.

The Share of Traffic from Other Google Ads in Websites' Total Traffic

(286) The graphs below shows traffic rates belonging to large, medium and small-sized websites separately from other Google ads apart from text ads taken from Google in their total traffic according to the number of logins. The graphs are prepared in different types and the changes are observed separately on an undertaking basis as well as for all of the undertakings:

Graph 36: **Large size websites' traffic rate from Google's other advertisement channels (%)**

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 37: **Large size websites' traffic rate from Google's other advertisement channels (Cumulative -%)**

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 38: Medium-size websites' traffic rate from Google's other advertisement channels (%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 39: Medium-size websites' traffic rate from Google's other advertisement channels (Cumulative -%)

(.....TRADE SECRET.....)

Source: Information submitted by the undertakings

Graph 40: Small-size websites' traffic rate from Google's other advertisement channels (%)

(.....TRADE SECRET.....)

Data: Information submitted by the undertakings

Graph 41: Small-size websites' traffic rate from Google's other advertisement channels (Cumulative -%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

(287) It is inferred from the graphs above that especially large undertakings' traffic from product ads have grown rapidly. As of July 2019, in (.....) and (.....) traffic, the rate of the traffic from Google's advertisement channels apart from text ads corresponds and goes beyond approximately (.....) % of the total traffic. The share of other ads that undertakings with medium and small-sized traffic take from Google has also grown with some exceptions.

(288) Therefore, considering the data given together, it is concluded that Google has monetized its general search result page and websites are preferring those paid channels increasingly. Depending on the abovementioned developments in traffics, the number and way of text ads, from which Google is currently obtaining the most traffic and revenues in general search result page, complicate competition for organic results.

The Shares of Traffic from Other Ad Channels In Websites' Total Traffic

(289) The shares of traffic from other ad channels apart from Google in websites' total traffic and how they have changed are also analyzed within the scope of the file. This aims to analyze whether websites who consent to pay more in order to gain more traffic are dependent on other advertisement channels apart from Google.

Graph 42: The traffic rate that large size websites gain from other advertisement channels (%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 43: The traffic rate that large size websites gain from other advertisement channels (Cumulative-%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 44: The traffic rate that medium-size websites gain from other advertisement channels (%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 45: The traffic rate that medium-size websites gain from other advertisement channels (Cumulative-%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 46: The traffic rate that small-size websites gain from other advertisement channels (%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 47: The traffic rate that small size websites gain from other advertisement channels (Cumulative-%)

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

(290) It is understood from the graphs that the share of the traffic of the websites that submitted information from all advertisement channels apart from Google (other price comparison websites, other search engines, social media, individual, video/banner, natural advertisement, etc.) in their total traffic is even lower than the share of text ads they obtain from Google alone. Second, even the traffic that the websites take from Google's all advertisement channels increase proportionally, the share of the traffic they take from other channels do not have a similar increasing tendency in general. The share of other advertisement channels in the traffics of large undertakings who take considerable amount of traffic, has a general decreasing tendency. It is possible to say that the same tendency applies for the traffics of small-sized websites.

Google Traffic Data on an Undertaking Basis

(291) Beside the analysis made using the traffic data of websites, the course of the different types of traffic volume coming from Google on the basis of undertakings is examined.

(292) The development of different channels in websites' traffic data from Google sources are shown below:

20-49/675-295

Graph 48: Undertakings' Google Traffic Data-I

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 49: Undertakings' Google Traffic Data-II

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

Graph 50: Undertakings' Google Traffic Data-III

(.....TRADE SECRET.....)

Source: Data submitted by the undertakings

(293) First, the graphs show that the general trend for the analyzed websites is to use Google's paid channel increasingly. Second, in most cases where traffic from text ads decreases, Google's other advertisement channels are used more. Third, traffics of most of the large and medium-sized websites, which do not/cannot give Google Shopping ads, from text ads have a tendency to increase and in some cases do not show a tendency to decrease. Fourth, the traffic from text ads of small-sized websites with relatively lower traffic volume has not grown in a stable way or the growth is not constant. This supports the finding that the said websites have a limited ability to budget for ad channels continuously and highly due to budget constraints. Fifthly, (.....) websites' text ad traffic is higher than their organic traffic as of the end of the analysis period. With respect to (.....) and (.....) with high traffic, Google Shopping ads are the primary source of traffic in Google.

(294) In light of the data above and the observations made depending on that data, the following conclusions are drawn: Google is the primary source of traffic for most of the websites, Google is so essential that it is not substitutable with other traffic channels, the dependency to Google's paid channels is increasing, in case Shopping ads are shown at the top of the page, it is seen that websites that can take place in that area have a tendency to prefer those ads since Shopping ads are placed above text ads, in spite of this, even for the said websites, text ads have an important share, the traffic that small-sized websites take from text ads is relatively low compared to websites with higher traffic due to budget constraints.

I.4.2.2.2. The Claim that Google Caused Ambiguity on The Advertisement Nature of the Text Ads and Its Assessment

(295) Another claim in the file is that the design changes Google made in AdWords ads made them increasingly similar to organic results, which led to uncertainties for the consumer concerning ad results.

(296) It is noted that during the first years of AdWords ads, they were separated from organic search results with their blue color and their position on the page, and that as time passed first the blue frame was removed and then they were placed in the same position as organic search results, that the size of the "Ad" indication was scaled down, which resulted in the fact that average consumer was unable to distinguish organic search results from AdWords ads⁶³. In addition, when Google's advertisement policy is taken as a whole, Google's placement of the right-side ad area to the top, increasing the number of ads at the top to four and increasingly placing product ads with images before organic results clearly shows that Google allocated the indispensable sections of the search result pages to revenue-generating content. This, in turn, resulted in a worldwide increase in AdWords budgets and a decrease in the share of organic traffic.

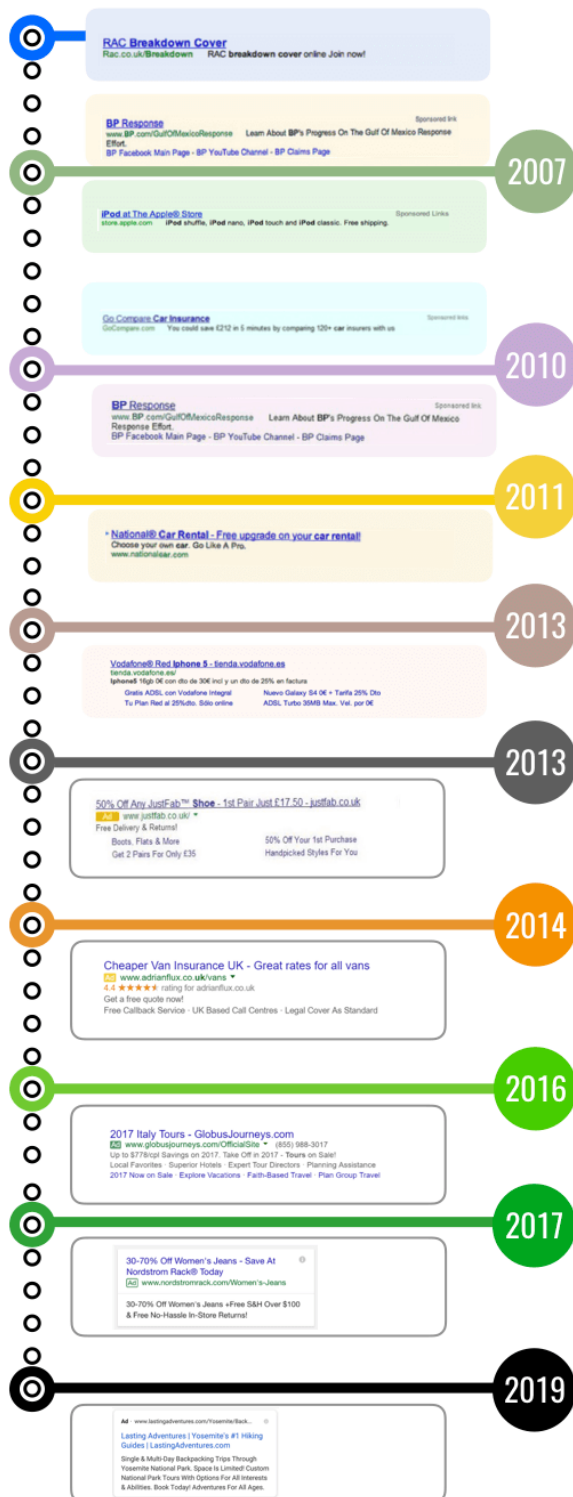
(297) At the same time, the maximum character limit allocated to titles of AdWords ad went up, allowing advertisers to enter more detail⁶⁴ to present any information they are unable to display on the organic results page through the ads. Thus, it becomes necessary to use AdWords ads, even for websites with good rankings among the organic results.

⁶³ <https://www.purposemedia.co.uk/2017/03/08/google-AdWords-impact-business/> Accessed 25.11.2019

⁶⁴ <https://www.wordstream.com/blog/ws/2016/05/24/google-mobile-first> Accessed 11/25/2019

(298) In relation to the claims above, the changes in the display of Google AdWords ads through time must be examined. The figure below show the changes Google made in the display of AdWords ads:

Figure 18: Changes in the Display of Google AdWords Ads through Time





Source: "Updated: A visual history of Google ad labeling in search results" <https://searchengineland.com/search-ad-labeling-history-google-bing-254332> Accessed: 25.11.2019

(299) The figure shows that Google displayed AdWords ads within a blue box at the beginning, the color of which desaturated over time with less striking shades being used instead. In 2013 AdWords ads were removed from the aforementioned colored box and displayed with an “Ad” indication in a yellow box. In 2014 the yellow box became less distinct, and the number of ads were increased. In 2016 the yellow box turned into the same green as the name of the website, and in 2017 the green background of the box turned into white. In 2019 the display format of the mobile channel changed, the “ad” phrase was removed from the box and presented before the blue hyperlink together with the domain address of the website.

(300) The below table shows the current display format of text ads on different channels:

Table 1: Display Format of Text Ads on Different Channels


Channel	Display Format for Text Ads
Desktop	<p>(Reklam) www.vivense.com/ ▼ 0850 480 2535</p> <p>Vivense Ayakkabılıklar Farklı Model Seçenekleriyle</p> <p>2 Yıl Garantili Ayakkabılık Modellerini Vivense.com'da Hemen Keşfet! İndirimli Fiyatlar. İlham Veren Tasarımlar. Ücretsiz İç Mimar Desteği. Dekorasyon Danışmanlığı. Hizmetler: Dekorasyon Danışmanlığı, Üyelere Özel İndirimler, Aylık Kampanyalar.</p> <p>📍 Söğütözü Mahallesi 2176. Sokak No:7/89 Platin Tower İş Merkezi, Vivense Ankara Showroo...</p> <p>Portmanto ve Ayakkabılık Kullanışlı ve Ekonomik Modeller Avantajlı Fiyatlarla Vivense'de</p> <p>Çok Amaçlı Dolaplar Modern Çok Amaçlı Mutfak Dolabıyla ve Uygun Fiyatlarla Tazını Yansıt</p>
Tablet	<p>Ad · www.vivense.com/ 0850 480 2535</p> <p>Modern Ayakkabılık Modelleri En Uygun Fiyatlarla Vivense'de vivense.com</p> <p>2 Yıl Garantili Ayakkabılık Modelleri ile Tazını Yansıt! Dekorasyon Danışmanlığı. İlham Veren Tasarımlar. Ücretsiz İç Mimar Desteği. İndirimli Fiyatlar. Hizmetler: Dekorasyon Danışmanlığı, Üyelere Özel İndirimler, Aylık...</p> <p>Portmanto ve Ayakkabılık</p> <p>Çok Amaçlı Dolaplar</p> <p>Özel Tasarım Dresuarlar</p>

Mobile Phone	<p>Reklam · www.vivense.com/ayakkabilik/antre ⓘ</p> <p>Modern Ayakkabılıklar Ev Dekorasyon Ürünleri İndirimli Fiyatları Keşfet</p> <p>Ücretsiz iç mimar desteği ve indirimli fiyatlarla evini yenileme fırsatını kaçıрма! Birbirinden farklı, kaliteli ve trend tasarımlı ürünler için sayfamızı ziyaret edin. İlham Veren Tasarımlar.</p> <p>Portmanto ve Ayakkabılık Çok Amaçlı Dolaplar</p> <p> Telefon et: 0850 480 2535</p> <p> Kısa mesaj: 0850 480 2535 Daha fazla bilgi için bize ulaşın ></p>
-----------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

(301) As shown in the table above, the last changes introduced features not offered for organic results such as adding location and phone numbers, which can make the presentation of AdWords results more advantageous than organic results.


(302) On the other hand, after the recent updates, organic results are shown together with their logos on the mobile search results page, as seen in the following screenshots. Thus, Google places logos for organic results in the same place as it shows the “ad” label for text ads. This makes it expected for users to see some kind of phrase at the start of the internet address, thereby decreasing their sensitivity to the “ad” label shown before AdWords results. As a result, under the current circumstances, it seems even more essential that the advertisement nature of text ads be stressed more clearly.

Figure 19: Screenshot for the Organic Result for the Query "Shoe Rack" on a Mobile Phone


 <https://www.koctas.com.tr> › ayakka...

[Ayakkabılık Modelleri ve Fiyatları | Koçtaş](#)

Ayakkabılık modelleri ile ayakkabılarınızı kirlenmeden saklayın. Hem fonksiyonel hem de şık kapaklı ve rafli ayakkabı dolap modelleri uygun fiyatlar ile ...




[Konfor Dehan Ayakkabılık](#) [Dekorister Sinem Ayakkabılık](#)

 <https://m.n11.com> › ayakkabılık

[Ayakkabılık Modelleri - Ayakkabı Dolabı - n11.com](#)

Ayakkabılık modelleri, plastik, metal, ahşap & bez ayakkabılıklar n11.com'da! Aynalı & portatif ayakkabı dolapları & fiyatları Mobilya kategorisinde!





[Kaplönü Metal Ayakkabılık ...](#) [Ayakkabı Dolabı - n11.com](#)


 <https://www.gittigidiyor.com> › arama


[Ayakkabılık - GittiGidiyor](#)


Figure 20: Screenshot for the Organic Result for the Query “Shoe Rack” on a Desktop


 Koçtaş > tr > ayakkabılık
Ayakkabılık Modelleri ve Fiyatları | Koçtaş
Ayakkabılık modelleri ile ayakkabılarınızı kirlenmeden saklayın. Hem fonksiyonel hem de şık kapaklı ve raflı ayakkabı dolap modelleri uygun fiyatlar ile ...
Konfor Dehan Ayakkabılık · Dekorister Sinem Ayakkabılık ...

 N11.com > mobilya > antre > ayakkabılık ▾
Ayakkabılık Modelleri - Ayakkabı Dolabı - n11.com
Ayakkabılık modelleri, plastik, metal, ahşap & bez ayakkabılıklar n11.com'da! Aynalı & portatif ayakkabı dolapları & fiyatları Mobilya kategorisinde!
Kapıönü Metal Ayakkabılık ... · Ayakkabı Dolabı - n11.com · Ayakkabı Dolabı

 GittiGidiyor > ayakkabılık ▾
Ayakkabılık - GittiGidiyor
Ayakkabılık GittiGidiyor'da! Ayakkabılık modelleri, Ayakkabılık özellikleri ve markaları en uygun fiyatları ile GittiGidiyor'da.

 Vivense > Antre ▾
Ayakkabılık Modelleri ve Fiyatları 2019 - Vivense
İster kapı önünde isterseniz ise antrede kullanabileceğiniz dekoratif ve kullanışlı Ayakkabılık Modelleri uygun fiyatlarla Vivense'de.

 Hepsiburada > ayakkabılıklar-c-18021622 ▾
Ucuz Ayakkabılık ve Ayakkabı Dolabı Modelleri ve Fiyatları
Ayakkabı modelleri en uygun ayakkabılık fiyatları ile Hepsiburada.com'da. Kampanyalarımız sizleri bekliyor !
Ucuz Ayakkabılık ve Ayakkabı ... · Dikey 4'lü Metal Ayakkabılık ... · 29

 Trendyol > ayakkabılık ▾
Ayakkabılık Modelleri ve Ayakkabılık Fiyatları - Trendyol
Ayakkabılarınızı düzenli tutan ayakkabılık modelleri, ihtiyaçlarınıza uygun ayakkabılık ve ayakkabı modelleri uygun fiyat & kampanya fırsatlarıyla Trendyol'da.

(303) In light of the observations and assessments above, Google gradually made the emphasis on the advertisement nature of text ads more ambiguous, in terms of both display format and labeling. This can increase the impact of Google's actions under investigation within the scope of the file. This is because displaying ad results which are not selected according to an organic search criterion in a way that helps them to be perceived as organic traffic makes it harder for organic results to compete in this area. In addition, as will be explained in detail below, users lack of sufficient knowledge on Google ads is thought to reinforce the effect of displaying ad results with ambiguous labeling.

29	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
30	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
31	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
32	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
33	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
34	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
35	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
36	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
37	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
38	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
39	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
40	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
41	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
42	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
43	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
44	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
45	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
46	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
47	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
48	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
49	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
50	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Source: Google						

(306) As shown in the table above, (.....) of the most searched queries on Google in the e-commerce sector included brand names or mostly consisted of brand brands on their own. As a result, undertakings placing ads with their own brands leads to advertisement costs, even where they have the highest demand and where organic results alone should be expected to suffice.

(307) On the other hand, documents collected during the on-site inspection conducted at Google’s premises suggest that Google encouraged undertakings to invest more in brand ads and that undertakings did indeed make investments accordingly. **Document 20/212** shows that Google employees made comprehensive explanations on the benefits of brand-based ads and on why customers needed to take out ads with their own brands. The conclusions of the Wharton study quoted in the relevant document are important. The study observes that brand-based ads ensured disproportionately high clicks, conversions and revenues, and significantly eliminated organic search where clicks are free. The document generally notes that brand ads led to better user experience and higher conversion rates.

(308) **Document 20/217**, on the other hand, examines, in light of organic rankings, to what extent ad click-through rates increased traffic when undertakings placed brand-based advertisements and concluded that ad click-through rates led to a (.....)% increase in traffic for the top spot in organic rankings, a (.....)% increase for the (.....) spot, and a (.....)% increase for the (.....) spot and below in organic rankings. In the document, Google draws attention to the importance of brand ads by emphasizing the fact that the lower the ranking of a website in organic result rankings, the greater effect the ads would have. Consequently, the relevant document is found to support the claim that Google encouraged undertakings to invest more in brand advertisements.

(309) In addition, **Document 20/108** includes a test on the effects of brand-based advertisement, finding that a (.....) firm saw a rapid fall in traffic and suffered significant losses in sales when brand protection was turned off. The document in question is important in terms of showing the effect of brand-based ads on website traffic. Taking into account the document in which Google mentions the benefits of brand-based ads, it may be concluded that firms which do not wish to lose traffic may prefer to invest more in brand ads.

Negative and Positive Aspects of Brand-Based Ads for Websites

(310) The documents above show that Google strives to generate the most revenue from the queries with the most traffic, setting up competition for brand words by allowing other brands to place ads with them on the one hand, while encouraging websites to invest in brand-based advertisements on the other. Faced with this situation, it becomes important to examine whether websites benefit from brand-based ads and how they are affected. For the purposes of this analysis, information was requested from websites which operate in the sector and which receive small, medium and large scale volumes of traffic from Google concerning their opinion on third parties' ability to participate in Google's AdWords tenders for brand or websites names owned by themselves or other undertakings.

(311) (.....) and (.....) opined that the relevant practice was a positive one; (.....) and (.....) stated they had a negative view on the ability to bid on brand and website names owned by others; (.....) and (.....) stated that bidding on brand and website names owned by others had both positive and negative aspects, (.....) and (.....) noted that they had neither a positive nor a negative opinion on the matter.

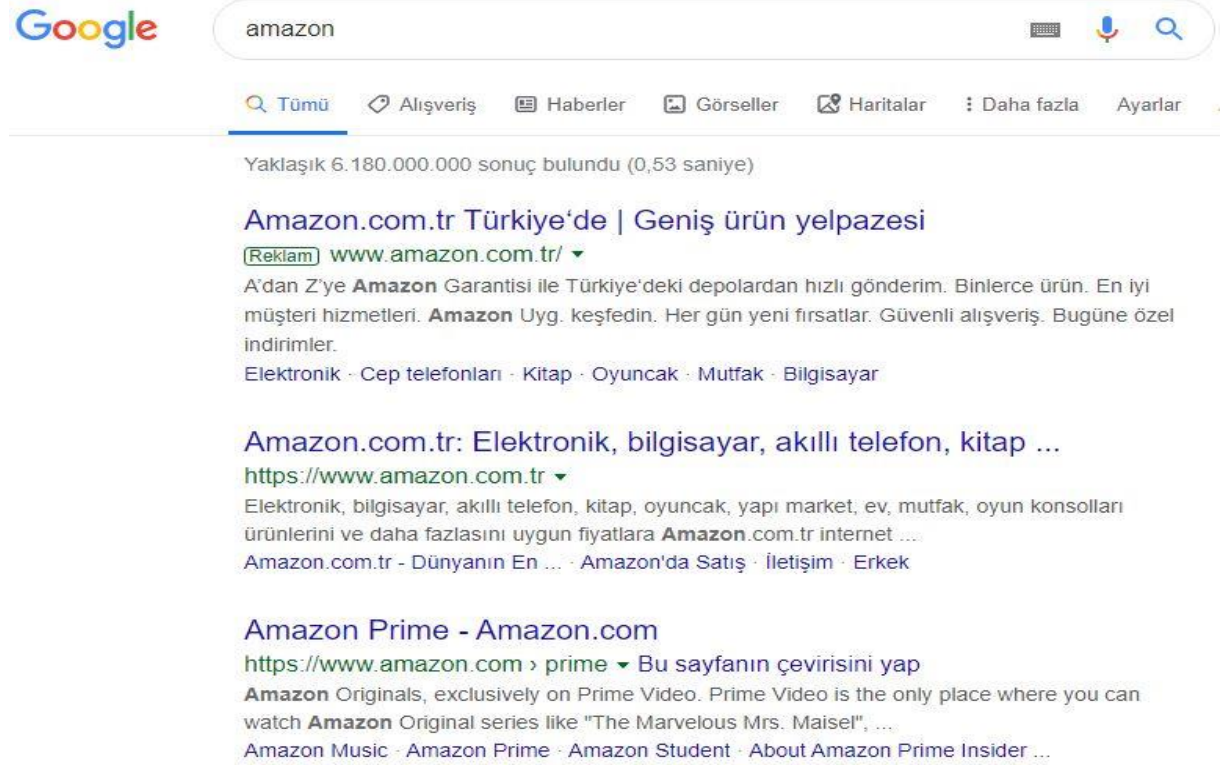
(312) In light of the aforementioned views, 67% of the sector representatives and websites expressed a negative opinion on third parties' ability to bid on Google AdWords ads for brand and websites names owned by themselves or other undertakings, with 16% expressing a positive view and 5% stating both a positive and a negative view.

(313) In summary, the response submitted by the undertakings stated that, when making a search, users generally tried to access the site by simply entering the brand name in the search engine instead of going to the website by entering the domain name on the address bar of the internet browser, with the goal of reaching the service/product they were looking for sooner. Consequently, when third parties placed ads on other brand/domain names, users were more likely to confuse them with the service offered by the real owner of the brand, with the users trying to contact the brand owner being directed to other websites, resulting in a loss of traffic for the real brand owner. It is also noted that even when the brand/domain name owner had a high spot in organic rankings for brand queries made by users, since third parties could place ads with their brand names, those undertakings were forced to place ads with their own brand names, as a result of which users who wished to directly access the website of the brand owner coming to the site using a paid-for link and a significant portion of the websites' budget being allocated to such advertisements. Accordingly, it is stated that Google increased the dependency on their ad services in this way.

(314) Another the websites also mentioned that brand owners placed ads as a precaution to prevent third parties from taking out ads with their brand names, but if

third parties did not participate in the tender, then the first page of the search results showed ads only by the brand owner. The following screenshot shows an example of this.

Figure 21: Sample Screenshot for When Third Parties Do Not Place an Ad in Tenders for Brand Queries



(315) Users in this situation could similarly click on the text ad in order to access the brand/website they are looking for quicker, which forces the brand owner to incur additional ad costs.

(316) On the other hand, some undertakings stated that they had a positive view on third parties' being able to bid in tenders for placing ads using other brand/website names. In that context, it was mentioned that due to third parties' ability to participate in Google AdWords tenders for the brand or website names of their own or other undertakings, users got informed about other websites offering the same or similar products/services, and therefore had the opportunity to choose between the alternatives on offer. In addition, it was noted that this allowed different firms offering similar products/services to display their brand name and message to users, helping to smaller-scale firms be more competitive. Therefore, it had a positive effect on creating a competitive environment, since it was basically a model very similar to advertisements intended to attract customers from a rival firm.

(317) It was also stated that brand owners did not place ads with their own brands solely to prevent third parties from taking out ads using their brands and decreasing their traffic, that such ads also served to highlight relevant campaigns and important products/themes. As a result, the situation was very similar to distributing a discount or promotion leaflet with pictures highlighting featured campaigns to visitors of a brick-and-mortar shop.

(318) The following tables show the share of the traffic coming from queries containing only their own website and brand names versus the share of the traffic coming from queries containing third party website and brand names within the total traffic from Google AdWords.

Table 3: Data on the Share of Traffic from Queries Containing Third-Party Website and Brand Names within the Traffic Coming From Google AdWords Ads (%) ⁶⁵

Undertaking	Year								
	2011	2012	2013	2014	2015	2017	2017	2018	2019
Trendyol	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Boyner	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Setur	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Yemeksepeti	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Zingat	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Morhipo	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Hürriyetemlak	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Obilet	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
D&R	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Defacto	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Pegasus	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Sefamerve	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Etstur	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Ucuzabilet	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Vivense	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Emlakjet	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Neredekal	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

Source: Data Acquired from Undertakings

Table 4: Data on the Share of Traffic from Queries Containing Only Own Website and Brand Name within the Traffic Coming from Google AdWords Ads (%)

Undertaking	Year								
	2011	2012	2013	2014	2015	2017	2017	2018	2019

⁶⁵ The reason for the relevant table including a relatively lower number of undertakings is the fact that some undertakings do not place ads on queries containing third-party website and brand names and therefore do not receive any traffic from this channel.

Trendyol	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Enuygun	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Boyner	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Çiçeksepeti	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Setur	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Yemeksepeti	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Zingat	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Sahibinden	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Morhipo	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
LC Waikiki	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Çiçekmarket	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Hürriyetemlak	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Obilet	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
D&R	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Defacto	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Bilyoner	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Nesine	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Tatilbudur	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Pegasus	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Tatil.com	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Sefamerve	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Facebook	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Etstur	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Ucuzabilet	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Vivense	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
N11	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Emlakjet	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)
Neredekal	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)	(....)

Source: Data Acquired from Undertakings

(319) The tables above show that undertakings generally get a significantly larger share of the Google AdWords traffic from queries that include their own brand/website names than the share of the traffic they get from queries that include third party brand/website names. As such, advertisers generally prefer investing in their own brands and that users tend to go to the website of the brand they searched for. This shows that being able to place ads with third party brands have a very limited benefit in terms of offering an alternative brand or website to the users, as mentioned above.

(320) On the other hand, cases where a single brand may be sold through more than one channel or retailer should be emphasized. The most distinct examples of this situation are the marketplaces which have become an important part of e-commerce. As known, marketplaces offer products and services by various brands to the user on a single platform. As a result, these platforms may take out ads with the products or services on offer as a natural consequence of their business models. In fact, Biletbayisi, which sells tickets for various airline companies online, stated that it had to place ads using the names of the relevant airline companies in order to be able to sell

tickets, since customers searched for the airline they wished to use in order to find cheap tickers. As such, it may be considered that websites such as marketplaces selling products/services by many brands place ads using the names of the various brand owners as part of the service they offer. Indeed, this is supported by the fact that websites such as (.....) and (.....) have a significantly higher share of traffic from queries including only third-party website and brand names within Google AdWords ads than other websites.

Users’ Preferences Concerning Brand-Based Ads

(321) At this point, it must also be examined whether a user searching for a brand name would prefer to click on the AdWords ad instead of the organic traffic for the brand. First, it must be noted that, as will be explained below, a significant portion of the users do not perceive Google ads as actual advertisements.

(322) One of the undertakings which received an information request under the file stated that in October 2018, click-through rates for the advertisement were between (.....)% when a query was submitted for the self-owned brand name. Since (.....)% of even those users who specifically wished to access the brand clicked on the ad, it must be concluded that the click-through rates for the ad would be even higher when advertisements placed by other undertakings with this brand are taken into account.

(323) Another undertaking provided an example for a similar situation. This particular example stated that, for those queries which searched for the brand name, AdWords results had a click-through rate of (.....)%, while click-through rates for the organic results remained at around (.....)%. Besides, studies highlighted by Google to encourage brand-based advertisements showed that users tended to click on the advertisement even when they searched specifically for the brand. The fact that even a user explicitly searching for a brand mostly clicks on the text ad shows how text ad position and density affects traffic.

(324) In order to understand user preferences, Google was asked to provide display rates of advertisements by brand owners and third parties, as well as their click-through rates, for searches using brand or website names.⁶⁶ This was intended to examine how frequently users saw a third-party website and how they reacted to such advertisements. The table below includes the display rates of text ads placed by the website owning the brand or website name and by the third parties, within the text ads displayed for queries including brand and website names.

Table 5: Text Ad Display Rate for Queries Which Only Included the Domain Names of E-commerce Websites (%)

Date	Share of text ads directing to the domain name in the query	Share of text ads directing to third-party websites
March 13, 2019	(.....)	(.....)

⁶⁶ Google made the following explanations on the information submitted:

- The data concerned queries that included the domain name of a single e-commerce website within all websites classified as “E-Commerce and Shopping” sites by SimilarWeb in its June 2019 ranking,
- The data requested could only be provided for the period between March 2019 to October 2019.

April 10, 2019	(.....)	(.....)
May 08, 2019	(.....)	(.....)
June 12, 2019	(.....)	(.....)
July 10, 2019	(.....)	(.....)
August 14, 2019	(.....)	(.....)
September 11, 2019	(.....)	(.....)
October 09, 2019	(.....)	(.....)
Source: Google		

(325) The table above shows that for queries users submitted with only brand/website name, the display rates of the brand/website owner and third parties in text ads (with the exception of the month of (.....)) were close to each other. As such, websites clearly tend to place ads with their own brands.

(326) However, the following table shows the click-through rates for ads placed by websites owning the brand or site name and by third party websites, among the text ads displayed in response to queries that include only brand or website name. As the table shows, in queries where users only search for brand/website names, a large portion of the users accessed the website they were searching for through the text ads, while a much smaller portion accessed the other websites. Therefore, it can be said that users generally prefer to go to the brand/website they are looking for. In fact, traffic information collected from websites also support this point.

Table 6: Click-Through Rates for Text Ad in Queries That Include the Domain Name of a Single E-Commerce Website (%)

Date	Click-through rates for text ads pointing to the domain name found in the query	Click-through rates for text ads pointing to third party websites
March 13, 2019	(.....)	(.....)
April 10, 2019	(.....)	(.....)
May 08, 2019	(.....)	(.....)
June 12, 2019	(.....)	(.....)
July 10, 2019	(.....)	(.....)
August 14, 2019	(.....)	(.....)
September 11, 2019	(.....)	(.....)
October 09, 2019	(.....)	(.....)
Source: Google		

(327) On the other hand, if a query includes one or more words together with the brand name or website name, the click-through rates shown above may change.

Table 7: Click-through Rates for Text Ads in Queries That Include Additional Words Together with the Domain Name of an E-Commerce Website (%)

Date	Click-through rates for text ads pointing to the website at the domain name found in the query	Click-through rates for text ads pointing to third party websites
March 13, 2019	(.....)	(.....)
April 10, 2019	(.....)	(.....)
May 08, 2019	(.....)	(.....)
June 12, 2019	(.....)	(.....)
July 10, 2019	(.....)	(.....)
August 14, 2019	(.....)	(.....)
September 11, 2019	(.....)	(.....)
October 09, 2019	(.....)	(.....)
Source: Google		

(328) As seen in the table, if the users search for another word together with the brand/website name (such as “ipekyol skirt”), then there is a relative drop in the click-through rates for the brand searched and the gap between the click-through rates of the other websites decrease.

(329) Based on the data above, it becomes clear that if the users search with a brand or website name, they are much less likely to prefer to see a third-party website or brand. This shows, once more, that being able to place ads with third party brands have a very limited benefit in terms of offering an alternative brand or website to the users, as mentioned above. As a result, brand owners receive more clicks from the website and brand names they own but are forced to do that through the ads they place.

(330) In addition, websites whose opinions were requested stated that if the brand-owner placed ads on its own brand, they incurred lower cost-per-click in light of the click-through rates of the website and the content of the search, and that third parties did not prefer to place ads on the names of other brands since this increased cost-per-click. In that framework, Google noted that it did not define queries with brand names in a different way than other queries, i.e., that it did not determine whether or not a query is brand-based. On the other hand, it would be beneficial to touch upon the points Google takes into consideration for ad ranking within the scope of the tenders it holds.

(331) Google has a second-price tender model which takes into account both the bid submitted in the tender and quality. Thus, Google ranks ads according to a tender point calculated as a result of both the submitted bid and quality. Consequently, the winner may not always be the ad submitting the highest bid, and an advertiser may not rank at the top, even if it did submit the highest bid in the tender. For instance, an advertiser with a higher quality score may still win the tender after submitting a lower bid opposite a rival that submitted a higher bid but has a lower quality score (low user experience, low click-through rates, etc.).

(332) It is well-known that the calculation of the auction score, which determines the

ranking of the ads, involves many quality factors unrelated with the bid itself, including (.....) (.....)

(333) Advertisers are charged over the cost-per-click (CPC), which is based on a model where they make a payment every time users click on the advertisement displayed on Google. When setting up a shopping campaign, the advertiser sets the maximum CPC amount it wishes to pay for each click, and then submits a bid accordingly. The maximum CPC bid is the highest amount the advertiser will be charged for a click, although the actual amount paid is generally lower. The latter amount charged to the advertiser for a click is called actual CPC.

(334) Since Google uses a second-price model, the actual CPC the advertiser has to pay for the ad represents the amount it has to pay for its ad to overtake the tender score of the ad directly above. According to the ad ranking calculated by Google, assuming advertiser A has the top ranking and advertiser B is just below it, the CPC A will pay is calculated according to the following formula:

(.....)

(335) In the example given below to explain this process, it can be seen that since the second highest tender score is (.....) and the quality score is (.....), the cost per click is calculated to be (.....).

Table 8: Sample Calculation of Actual CPC

Advertisement	Bid	Quality	(Ad Rank)	Current CPC
A	(.....)	(.....)	(.....)	(.....)
B	(.....)	(.....)	(.....)	(.....)

Source: Google

(336) On the other hand, if there is no second bid, then the party that submits the winning bid gets the relevant advertising space at the base price.

(337) Accordingly, the actual CPC will be indirectly affected when users query a brand, as a result of the expected click-through rate of the relevant brand and its level of connection to the key words influencing the quality score. This is because the relevant brand won the tender due to its higher quality score despite submitting a bid lower than those of the third parties and found the opportunity to place ads at lower costs.

(338) On the other hand, where search results only show ads of the brand owner due to a lack of third parties participating in the tender, the brand owner would have to pay the base price even when there are no second bids.

(339) Taken all together, this information shows that undertakings' placing ads on other brands lead to the allocation of larger budgets to advertisements. It also results in conditions to the detriment of organic results since brand owners are forced to incur ad costs even where third parties do not participate in the tender, despite the brand owner being able to rank higher in organic results. However, reliably restricting the parties that can place ads with brand names becomes harder due to various reasons including the fact that queries with brand names are not defined differently from other queries, that separate websites may exist with the same domain name (with .net, .com

and .org extensions), that brand and product names may be the same (for example, flower.com), and that one brand may be sold through multiple channels or retailers. On the other hand, brand owners do not place ads just because third parties might take out ads with their brands otherwise, but they also consider the space in question as a tool to promote their seasonal campaigns. Also, bidding for brand-based key words may allow other players that offer products and services similar to those of the searched brand a limited opportunity to promote themselves, giving users a chance to see the various options competing with each other. For small-scale brands/websites in particular, being able to take out ads with other brands is important to get recognized by the user. In that context, the relevant practice is found to have pro-competitive effects. As a matter of fact, at this juncture it is thought that Google's efficiency argument which claims that advertisers being able to bid on brand-based key words encouraged competition between advertisers may be justified.

(340) On the other hand, the practice concerned is prohibited under the Industrial Property Law no 6769 (Industrial Property Law). The Industrial Property Code covers "*applications, registrations and post-registration processes regarding trademarks, geographical signs, design, patent, utility model and traditional product names and legal and criminal sanctions concerning the violation of these rights*". Article 7 of the aforementioned Act, titled "*Scope of rights conferred by a trademark and its exceptions*" states that brand protection offered by the Industrial Property Law would be acquired through registration, following which it is noted that any rights arising from trademark registration would be granted exclusively to the trademark proprietor, and that therefore the trademark proprietor would be entitled to request the prohibition of the following acts, if executed without consent:

"a) Use of any sign identical with the trademark at goods or services that are in the scope of the registration.

b) Use of any sign identical with or similar to a registered trademark and covering identical or similar goods or services with the registered trademark, and is therefore liable to create a likelihood of confusion on the part of the public, including the likelihood of association between the sign and the trademark.

c) Use of any sign identical with, or similar to the registered trademark, irrespective of being for identical, similar or different goods or services, where the use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trademark due to the reputation it has in Turkey.

(341) Paragraph 3 of the same article states that the cases set out below may be prohibited, if the sign⁶⁷ is used in trade, in accordance with paragraph two:

a) Affixing the sign to the goods or to the packaging thereof;

b) Putting the goods on the market, offering them as deliverable, or stocking them for these purposes under the sign, or offering or supplying services thereunder;

c) Importing or exporting the goods under the sign;

ç) Using the sign on business papers and advertisements of the undertaking.

⁶⁷ Article 4 of the Code defines signs that can be trademarked as any sign like words, including personal names, figures, colors, letters, numbers, sounds and the shape of goods or their packaging.

*d) Using identical or similar sign on internet media as domain name, router code, keyword or in similar manner with a commercial impression; provided that the person using the sign has no right or legal affiliation for the use of that sign.
...”*

(342) As made clear in the provisions of the Code quoted above, if any sign of a registered trademark, identical or similar, is used as a domain name, redirection code, key word, etc. on the internet by other persons, the owner of the trademark is entitled to request the prohibition of the act in question. The Code notes that the competent courts for the lawsuits concerned are the Civil and Criminal Courts for Intellectual and Industrial Property Rights.

(343) In addition, Article 54 of the Turkish Commercial Code no 6102 (Commercial Code) provides that “*behaviors and commercial practices affecting the relationship between rivals or between the suppliers and customers that are of deceptive nature or otherwise in violation of the principle of good faith*” are illegal. Article 55.1(a) of the Commercial Law lists taking steps which would lead to confusion with the goods, business products, activities or businesses of others as an example of unfair competition. Accordingly, any action that creates similarity and leads to confusion with a brand name owned by others are defined as unfair competition and may be brought before courts.

(344) In fact, the contents of the file show that some websites made applications to the Courts for Intellectual and Industrial Property Rights concerning the subject matter of the claims. The Court decisions submitted by (.....) shows that many firms placed ads on Google AdWords with the domain name owned by (.....) and with the keyword “(.....),” which is a registered trademark of (.....). Lawsuits were brought against the firms for infringement of trademark rights as well as for the establishment, prevention and prohibition of unfair competition on the grounds that the trademark was used illegally without consent, and interim injunctions were requested. İstanbul Courts for Intellectual and Industrial Property Rights have accepted the injunction requests and the lawsuits. However, (.....) stated that Google failed to comply with the ruling, despite the court decisions. In addition, in the documents and information it submitted, (.....) noted that the same issue was encountered with the “*Yandex Direct*” system, but Yandex promptly met their demands. Similarly, websites who received requests for information stated that Google’s practice in question was in violation of the Industrial Property Code and led to unfair competition. Accordingly, the issue at hand is expected to come to a solution through the efficient application of the other regulations related to the matter.

(345) As a result, due to the aforementioned reasons, an infringement was not found concerning the claim in question in light of the fact that it is impossible to clearly define the parties that could place ads with brand names, that the practice of placing brand-based advertisements has certain pro-competitive aspects, and that the effect of the practice in question may be eliminated through other legal regulations.

I.4.2.2.4. The Claim that Text Ads Given By Websites Affect Their Ranking in Organic Results and its Assessment

(346) One of the claims put forward under the file asserts that a website placing AdWords ad improved its organic ranking, which affected Google’s neutrality in organic

search results and foreclosed the market to undertakings in this field trying to compete with Google services.

(347) First of all, Google was asked to provide information on how Google's search algorithm evaluated the traffic coming from Google AdWords service to websites using that service. In its response Google declared that the search algorithms did not take into account any signals concerning ads. Therefore, when ranking the organic search results, Google's search algorithms did not take into consideration whether a website advertised within the framework of Google's advertisement activities or whether it acquired visitor traffic from Google ads.

(348) In order to examine the relevant claim asserted under the file in a more tangible manner, tests (A-B test⁶⁸) and analyses were conducted within the Authority. However, there has not been sufficient evidence to show that websites' rankings in organic results were affected by their placing text ads on Google. Consequently, no infringement is found concerning the claim in question at this stage.

I.4.3. Assessment of the Information Collected during the On-Site Inspections

(349) This section will include an assessment of the documents collected during the on-site inspections which are deemed to be important.

(350)

(.....TRADE SECRET.....)

(351) **Document 20/133-134** shows that an undertaking had the top ranking for a certain keyword before switching to PWA, but afterwards it was either on the first page for the same keyword or was not on any page at all, creating a significant problem for the firm **Document 20/112-115** reveals that the organic traffic a firm received from pages where it switched to AMP was significantly lower than the organic traffic it received from those pages where it did not use AMP.

(352) Google's written plea states that AMP is an open source format for web pages developed by an industry group that includes Google, Bing, LinkedIn, Twitter, Wordpress, eBay, Baidu, Weibo and others, that it provides advantages for users viewing webpages on their mobile devices on matters such as (i) (.....), (ii) (.....) and (iii) (.....) , that webpage publishers did not have to create AMP pages but they chose to have AMP versions in addition to the full versions of their websites due to the benefits it provides to mobile device users, that even if website publishers adopted AMP pages,

⁶⁸ The Goal of the A-B test was to build two equivalent websites from scratch with the same domain name but different extensions. The server settings of the websites were configured identically. Wordpress sites with the same version of the software were built on the servers. Both websites had "https" turned on to start the test under the same circumstances. Then Publisher was set up on the websites as a template. All operations other than placing ads were carried out simultaneously on the websites. One of these operations set up a testing environment without many features that would positively affect SEO, such as user comments and social network postings. As such, the websites only served to measure the effect of Google AdWords ads on Google's organic results. In the beginning the websites did not contain any AdWords ads, just original content. After a certain period, Site A began publishing AdWords ads as well as original content. However, Site B continued to publish only original content equivalent to those published on Site A, without any AdWords ads. After another period of time Site A stopped publishing ads and Site B began publishing them.

they would continue to receive traffic from the non-AMP pages unless they removed all non-AMP pages from their servers.

(353) In its written plea, Google states that PWAs were basically normal web sites with a technology that allows them to look like a traditional application or local mobile application to the users, that PWAs provide many advantages to the users, including (i) speed (they respond to user interactions rapidly), (ii) attractiveness (they feel like a natural application on the user's device) and (iii) reliability (they can be immediately loaded even under uncertain network conditions). It is also noted that PWAs benefit website owners as well, since they are easier to develop and maintain than local applications.

(354) Making improvements to the user experience and Google's adoption of these improvements as a ranking factor may be deemed reasonable in light of the benefits to both the users and the websites, as mentioned in the explanations provided by Google. However, the documents in question are important in that they reveal the loss of ranking websites face due to the uncertainties they encountered in understanding and implementing the relevant practices. On the other hand, Document 20/133-134, Document 20/112-115 and Document 20/150 make it clear that Google tried to inform and guide websites in this process. As mentioned at different places in the decision, these documents are deemed to be important since they show that Google informed the relevant websites concerning algorithm changes which would not create a risk of manipulation in search results and/or which affect traffic.

(355) **Document 20/47** includes market data on smart phone penetration and the search activities of users. The document also notes that smart phone penetration is quite high and that around (.....)% of the consumers have started discovering products through Google. Google's plea dismisses the claim that e-commerce sites are dependent on Google for their traffic and states that this document was in support of this argument. It is true that the traffic e-commerce sites receive from mobile applications have risen as a result of increasing mobile penetration. However, the most significant source of traffic for websites on both mobile and desktop devices is still Google. In other words, where users aim to reach websites as a result of a general search activity, Google is the most important tool used. In that sense, the relevant document is important in that it shows Google is an important source of traffic and is the platform on which a significant portion of product search begins.

(356) **Document 20/49-50** states that (.....)% of Google's revenue is from search activities, (.....)% from the display service and (.....)% from the video service, that the largest contribution to growth in search activities came from the mobile with (.....)% and desktops with (.....)%; (.....) . The document in question is important since it shows Google's sources of revenue. The document attempts to show the importance of the areas from which Google generates more income, from the viewpoint of both the undertakings and Google itself. Due to the fact that Google generates around (.....)% of its income from search activities, the relevant document is thought to be an indication of the important place search-based ad products like AdWords have for Google in revenue generation.

(357) **Document 22** includes the presentation titled "Retail Vertical Review", quoted from (.....). The relevant pages of the presentation (26, 46, 48, 49) are evaluated below.

- Page 26 of the presentation; (.....). Therefore, the document shows that Google is focused on the click-through rates of advertisements.
- Page 46 of the presentation; (.....). This shows that Google handles ad depth as a factor in increasing ad revenues. The document in question indicates that Google utilizes the use of the ad space as a tolerating tool. In that context, the document concerned is important for proving that revenues are connected to ad depth.
- Page 48 of the presentation shows that Google's revenues in 2017 went up by (.....)% compared to the previous year, (....) largest share in which belonged to the search services with a rate of (.....)%.
- According to page 49 of the presentation, Google aimed to increase its revenues by (.....)% in 2018 compared to the previous year, with the (....) largest share in that increase expected to belong to the search services with a significantly high rate of (.....)%.

(358) The charts in the document are deemed to be important in terms of showing the importance of the revenue Google generated and would generate in the future from search-based ad services as compared to its other sources of revenue.

I.4.4. Assessment of the Pleas⁶⁹ Submitted by Google

(359) The arguments in the pleas submitted by Google and the explanations concerning those arguments are given below. The same or similar arguments are repeatedly raised within the pleas under different headings. In order to avoid repetition, assessments of such arguments are given in detail in the most relevant section, with the other sections including either a brief opinion or none at all. In addition, closely related or complementary arguments were addressed together.

I.4.4.1. The Argument That Google Does Not Hold a Dominant Position and the Approach of Defining a “Content Provision Services” Market Is Mistaken

(360) **In summary, the following statements are made in the argument claiming that Google did not hold a dominant position:**

- Google, in any case, does not hold dominant position in any case; search-based ads are in competition with non-search-based ads, which invalidates the claims of dominant position; non-search-based ads also affect users who wish to purchase products or services; audience targeting is possible in non-search-based advertising thanks to technical developments such as ad retargeting and consumer intent prediction; the notification did not take into account the fact that non-search-based advertising services are currently being provided in real time and are targeted for a certain user demand; search-based ads can also be used to create brand awareness, which is confirmed by experimental studies; variations in CTR does not constitute a reason for ignoring the competitive pressure created by non-search-based advertisements:
- The investigation notification defined a relevant market for general search services; however, the claims were not about how users treated websites but about how Google treated them; therefore what needs to be

⁶⁹Google's first written plea dated 28.01.2019 and numbered 580; second written plea dated 17.02.2020 and numbered 1682, and third written plea dated 07.05.2020 and numbered 4270.

assessed in terms of dominance is whether Google holds dominant position in providing traffic to the websites in Turkey; in that context, the free traffic e-commerce sites receive in Turkey do not depend on Google and thus Google does not have a dominant position:

- The notification was overfocused on share data, stating that they showed market power; but share data does not indicate market power or dominant position on its own, especially in rapidly developing technology markets with a high degree of innovation; a better analysis can be done by assessing the competitive pressure Google faced in providing a competitive service; Google is actually under a lot of pressure to innovate and maintain its high-quality service:

(361) Under the file, it is explained in detail that search-based and non-search-based advertisements are not substitutable by taking into account many factors including their form of presentation, intended uses, returns, and allocated budgets. Therefore, this point will not be addressed again in response to abstract arguments without a basis on any studies. Besides, the file does observe that search-based ads had some benefits in terms of gaining brand awareness, however brand awareness was not at the forefront in terms of the fundamental goals of websites. Moreover, an exact market definition was not provided for the relevant field.

(362) First, as detailed within the file, it was established that Google's general search services were not substitutable with other sources of traffic. However, even if we were to accept that dominant position should be determined as proposed by Google for a moment, Google would still be found to hold dominant position. This is because an examination of the distribution of traffic sources for e-commerce websites clearly shows that Google has the largest share in general (Google has over 60% share in the total traffic of (.....)% of 32 websites).

(363) As mentioned above, Google has a level of competitive advantage when compared to the other search engines in light of its video search engine, display advertisement network and the fact that it is the default browser in all mobile operating systems, and there are indications other than market share data indicating that it holds dominant position. As stated repeatedly above, the innovation incentives of not only Google but all actors in the market must be taken into account.

(364) **In summary, the following statements are made in the argument posed under the title "The claim that it was not necessary to provide an exact definition of the allegedly affected relevant product market is seriously mistaken in a legal and economic sense,"**

- The Report's assessment that there is no need to define a separate market for the different categories of content provision services offered in the market and that defining this market would not be of benefit the Authority is an erroneous one; definition of the relevant market is the most fundamental and critically important first step of all types of competition analyses and is a required pre-condition of proving competitive harm; without defining the relevant market in which the alleged restrictive effects in the Report took place and without proving the existence of such a relevant market, it should be impossible to talk about the presence of such restrictive effects; in order to conduct a

reasonable competitive analysis, first the relevant product market should be defined and the players in the market which were allegedly harmed should be established,

- The requirement of defining the affected market is a universally adopted principle in competition law, for instance in the U.S. the complainant is “obliged to claim a reasonable relevant market in which competition would be harmed,” and in Europe the courts have emphasized that the market allegedly harmed is critically important in the competition analysis; at the same time, the Board has defined both markets in the previous files that involved dominant position and which involved two markets that were allegedly harmed; similarly the Guidelines on Exclusionary Conduct by Undertakings with Dominant Position notes that foreclosure in the “tied market” has to be proven in cases involving tying; an examination of the Turkish case-law does not reveal any decision in which the Board found abuse of dominant position without establishing and clearly defining the market with the alleged harm, to the best of Google’s knowledge,
- The Report justifies not making a market definition by stating that “once Google’s dominance in the general search market has been clearly demonstrated, making an exact definition for the affected market is not required” and “Google’s text ad services were provided independent of the scope of any content”; these justifications are not sufficient; market definition is important not only for establishing dominant position but also for assessing restrictive effects; the file in question claimed that the harm occurred in a market separate from the general search services market where dominant position was established, and therefore two separate product market should have been defined,
- The Authority cannot justify its refusal to define the relevant market with the alleged harm by the fact that Google shows text ads for different categories in the same way; Google’s activities related to the display of text ads are independent from the restriction of competition in the market; as mentioned in the Report, Google’s equal treatment of all parties in relation to text ads shows that there is no exclusionary infringement in this case:

(365) One of the main allegations examined within the framework of the file states that Google used the display format, density and placement of its text ads to provide advantageous conditions to those content providers who placed advertisements on Google and complicated the operations of those websites who chose not to place advertisements in the content services market. In other words, the claim under examination is that Google abused its dominant position in general search services through its text ads. In that context, two main markets were defined: general search services and content provision services. Therefore, the market affected by Google’s abusive conduct has been clearly established as the “content provision services” market. On the other hand, due to the great variety of content services, various services provided by websites cannot be substituted with each other. Moreover, a market definition to be made as a result of a further breakdown based on content type would not change the conclusion of the impact analysis. Consequently, it is believed that a defining a narrower market concerning content provision services within the

framework of the file would not result in the expected benefits. Besides, a content-specific categorization was deemed unnecessary due to various reasons, including the fact that Google's provision of text ads is not restricted to any content other than those areas specified by Google's ad policies⁷⁰, ad policies or limits do not change according to content, a reliable content-based categorization would be impossible in practice, a website can offer content in more than one area, and content limitation could lead to imperfect or late competition law intervention. Refusing to sub-categorize the content provision services market does not mean that the market was not defined or that the market was defined incorrectly. The file used the market definition which would facilitate the most reliable identification of the effects of the practices examined. Moreover, the pleas do not provide an alternative market definition under which the relevant effects are non-existent or different effects occur.

(366) On the other hand, Google displays its ads on the general search results page in response to search queries and thus a competitive environment is set up between the relevant ad results and the organic results themselves. So, even if we were to accept that Google treats all content providers equally in the provision of text ads, that does not necessarily show that there is no abuse. This is because the file does not claim that Google discriminates between content providers in the display of text ads. The real concern addressed in the file is Google's abuse of its dominant position through text ads in order to exclude organic results. Text ads are a type of content provided to users in response to a certain query and are in competition with the organic results displayed for the same query. That these two groups of results are in competition is also supported by the data provided by Google. If text ads are displayed in response to a query, a significant portion of the clicks switch to these ads instead of the organic results. This shows that these two types of content are substitutable as far as the users are concerned. In that context, it is thought that the exclusionary effect of text ads is no different than the exclusionary effect created as a result of Google highlighting its own products, as in the case of the Shopping Unit.

(367) **In summary, the following statements are made in the argument posed under the title "There is no plausible relevant market for 'content provision services'":**

- The Report itself clearly states there is no plausible market for "content provision services," therefore defining the relevant product market as content provision services is unjustified,
- The Report establishes that the different services provided within the content provision services market are not substitutable for each other and

⁷⁰ According to the information submitted by Google "Advertisements displayed on Google must be compliant with the Google Ads policies. These policies are intended to ensure that the ads comply with the applicable laws and provide a safe and positive experience to the users. For instance, according to the relevant policies advertisements promoting (i) counterfeit products or services (e.g., recreational drugs, psychoactive substances, equipment to facilitate drug use, weapons, ammunition, explosive materials and fireworks or tobacco products); (ii) inappropriate content (e.g., racism, cruelty to animals, murder, self-harm, extortion, or blackmail); or (iii) dishonest behavior (e.g., hacking software, fake documents, academic cheating services) are prohibited. In addition, Google ad policies may restrict certain content and features in order to comply with local regulations. Gambling, medicine ads and political content may be given as examples. Google Ads policies are open to the public." In that framework, it is understood that Google does not display ads for certain types of content.

states that “the users would not see a website providing news as content as a substitute for a website that sells clothing items”; these observations show that there is no relevant product market of content provision services in Turkey; where there is no supply-side substitutability, the relevant market could not possibly include products which are not substitutes of each other in terms of demand,

- The definition of a content provision services market in the Report is inconsistent with the previous case-law of the Board; defining a single market for content provision services without distinguishing between content types results in a single market which contains all websites; however, the Board previously defined narrower markets for websites in different categories based on the types of the websites concerned; for example in the *Sahibinden.com* decision it was concluded that *sahibinden.com* was operating in the “online platform services for real estate sales/renting services” market and in the *Kariyer.net* decision it was decided that the *IKariyer.net* website was active in the “job selection and placement services over the internet” market,
- In the Google Shopping decision, the Board claimed that there was a very narrow relevant product market for websites which bundled products together, but in the current case the Board argues for a much broader market that would include all websites on the internet; this approach is inconsistent and unstable; its purpose is to establish an infringement regardless of the existing evidence and material facts:

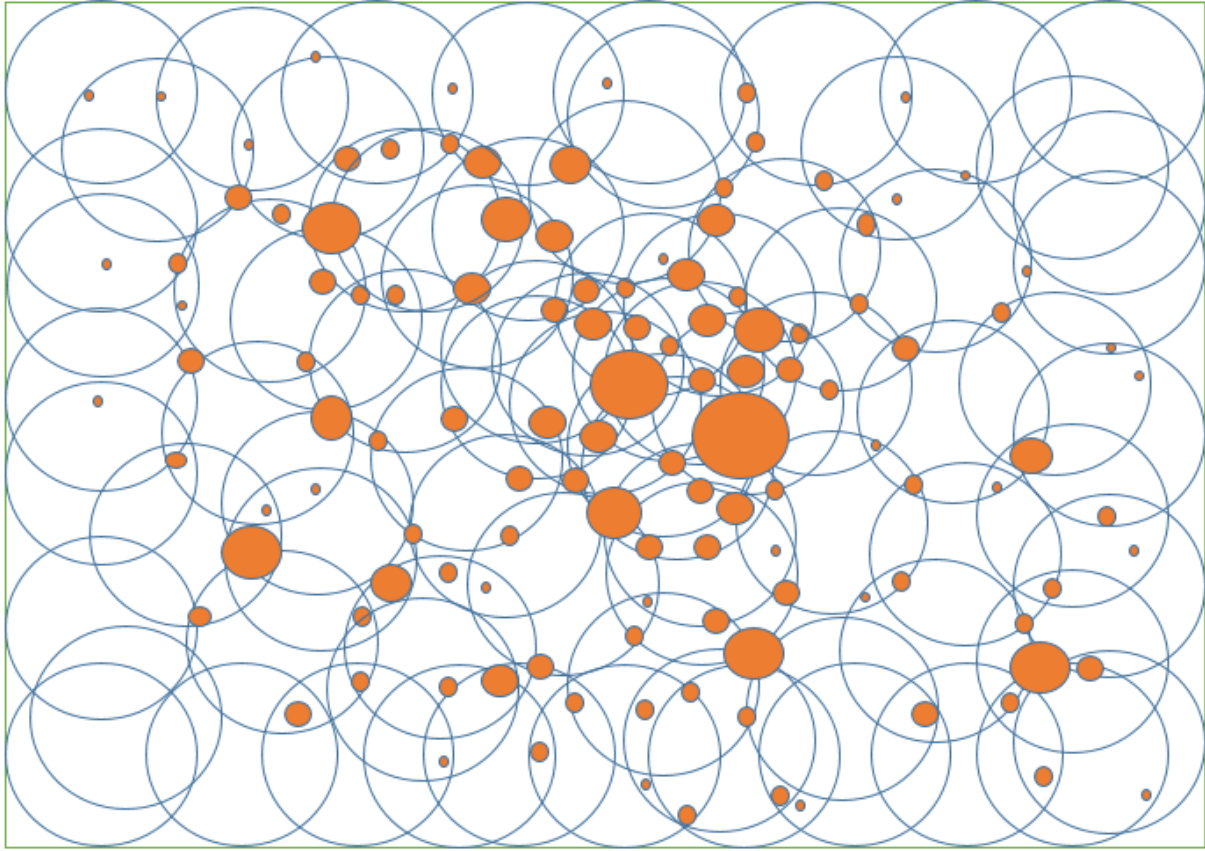
(368) In the Board decisions quoted in the Plea, the actions of the dominant undertaking affect the markets in question. To clarify, for example in the Board’s *Sahibinden.com* decision dated 01.10.2018 and numbered 18-36/584-258, the abusive behavior caused by *Sahibinden.com*’s exorbitant pricing only affected the online platform services for real estate sales/renting services and online platform services for vehicle sale/renting services markets. Similarly, in the Google Shopping investigation, it was established that Google’s comparison-shopping service Google Shopping Unit foreclosed the market to rival comparison-shopping services providing the same service with Google, due to its presentation and placement. However, the current case, which examines the relevant conduct by Google concerning text ads, makes a broader market definition meaningful, since the text ad service is provided independent of the scope of any content. In fact, content providers are able to use either Google’s text ads or the organic results to offer their content. Similarly, since the users’ goal is to access the content, they do not differentiate between the search results in question. As a result, it was concluded that the affected market was the “content services market” in the broadest sense.

(369) Moreover, as explained in detail above, it is estimated that an impact analysis conducted after a content-based breakdown would not change the conclusion drawn. This is because a very broad impact analysis was conducted within the framework of the file, based on the data requested from many foreign and domestic undertakings operating in various sectors.

(370) The content provision services market examined under the scope of the file and Google’s practices may be explained by the following figure. In the figure, the large rectangle represents the queries displayed in Google general search, blue rings

represent the set of queries that displays each website, and orange circles represent the queries where Google displays its text ads.⁷¹

Figure 22: Topology of Content Provision Services and Google Text Ads



(371) As shown by the figure above, different websites may compete within the framework of different queries and text ad intensity increases where competition exists or where it is more intense. According to the data collected under the file, the number and size of the orange circles above have been steadily increasing. The complex structure above makes a breakdown based on content or query unnecessary, yet this does not mean that text ads have no effect. The fact that text ads are not displayed under the current circumstances for the queries that find the websites represented on the bottom left or top right corners of the figure (one reason for which may be Google's ad policies or legal regulations that restrict ad displays) does not mean that there would be no problems for the area in the middle with intense competition or that text ads would have no effect at all. This is because text ads, when displayed, enter into actual competition with the organic results and lead to the effects shown in the chart above.

⁷¹The figure in question has been prepared only to help with the explanation and the number and size of the circles in the figure do not indicate the actual number of ads or the size of the website contents.

I.4.4.2. The Argument That Google's Displaying Text Ads Above Free Results Is Pro-Competitive and Text Ads Are a Legitimate Tool For Google to Finance Its Free Search Services

(372) In summary, the following statements are made in the argument posed under the title “Google’s Showing Text Ads Above Free Results Is a Legitimate Tool for Google to Finance Its Free Search Service Provided to the Users”:

- AdWords is a legitimate tool Google uses to finance its free search services; Google uses a bilateral business model financed by ads; the ranking of free results is not affected by any commercial relationship with the websites and Google generates revenue from paid results or advertisements; ads are clearly separated from free results and labeled as required:
- The Report’s objection to the display of Google’s text ads at the top ad space is an intervention without legal grounds in Google’s legitimate decisions concerning the organization and allocation of the advertisement areas in its search pages property which has material value; this objection stipulates the baseless seizure of the material value of Google’s real property of search pages in a way that would violate fundamental rights and freedoms; as a business financed through advertisements, Google generates its income by showing ads above the free results and thus is able to offer the search service free-of-charge; besides, all search services are always able to compete in kind:

(373) The use of the AdWords advertisement type or the generation of income through ad provision was not evaluated as an infringement within the framework of the investigation notification, which examined the anti-competitive effects stemming from the number, location and display area of the advertisements. An examination of the evolution of AdWords ads show that the display formats of AdWords and organic results gradually began to look alike.

(374) The intervention in the text ads provided by Google is not due to the fact that they generate ad revenue, but because they foreclose the market to organic traffic and therefore restrict competition in the content provision services market. In that context, it is not acceptable under competition law to allow Google unlimited freedom of action in this area based on its freedom to generate revenue from advertisements. This is because Google is a non-substitutable source of traffic for websites who are trying to operate commercially in these areas, specifically through the traffic they receive. Consequently, as the owner of such a critical infrastructure, Google has a particular responsibility not to abuse its dominant position. Addressing, under competition law, a practice by Google that would exclude organic results from the content services market in favor of its own ad results and the consequent intervention in this practice after an examination of its effects in the relevant market should not be seen as a violation of a legal principle.

(375) In that sense, Google’s right to generate revenue does not grant it the right to prevent competition in a market. Otherwise, competition authorities would not ever have the power to intervene in the operations of a dominant undertaking. After all, when dominant undertakings infringe competition law, they generally act based on an incentive to generate more revenues in short- or the long-term.

- Google is using a bilateral business model financed by advertisements; neither users nor websites make payments to Google in order to be able to use the search service or to be shown in the free results, respectively; the Report includes a paragraph which claims that Google does not provide its service to the users for free since users pay for the service with “data” but does not explain what is meant by this statement; neither does it support this claim by evidence or discuss how the relevant claim is connected to the theory of harm; the users do not pay a “cost” with “data” as claimed; data is not a type of currency and is not consumed when monitored or used; data is a kind of commodity the consumption of which does not involve competition; users’ sharing where they live and what they like with one ad platform does not prevent them from sharing the same data with other ad platforms:

(376) Many institutions and authorities around the world accept that consumers pay a price through their data and attention to digital platforms that operate with the zero-price model. It is not a reasonable explanation that users can easily provide their data or attention to another platform. The users neither want to share their personal data with multiple platforms for the same service, nor are they able to give their attention simultaneously to multiple platforms. Consequently, when users perform a search on Google, whose market power in Turkey is close to a monopoly in the general search market, they tend to try to access the content they are looking for by clicking on the higher ranked results among those listed by Google. The fact that Google is preferred to such an extent among users make the platform crucial for websites providing content.

- Google, like other general search services, generates income from paid results or advertisements it displays separately from free results; advertisers submit bids to place ads and pay Google when users click on their advertisements; this is the process which allows Google to provide its service to the users free-of-charge,
- Google displays the ads on the general search page, all together or in groups, only within the area reserved to ads and labels them accordingly; the ad area reserved for ads is positioned at the top of the results page (on the right side of the results page on desktop computers); as a strict rule, the vertical ad area is limited to the four text ad slots positioned above the free results; Google naturally uses the most noticeable areas of the general search results page when displaying ads; noticeable areas have material value and can generate revenue; it is completely legitimate for Google to provide these valuable ad spaces for a fee instead of free-of-charge; it is natural to highlight the ads for a business that generates its revenue from advertisements,
- The Board previously examined ad-funded business models in many decisions including Dijital Platform İletişim, Krea/Ulusal Kanal decisions; it did not express any concerns related to the relevant business models; no competition authority around the world objected to a business model funded through advertisements, such as search services, solely due to the company displaying advertisements clearly and noticeably; this

approach undermines the competition and operation methods of companies:

(377) As mentioned above, Google's practices were found to lead to a competition infringement not because they generate revenue but due to their restrictive effects on competition in the content services market stemming from the location of the text ads, the density number of text ads, and the way they are displayed. That there is a limit for the maximum number of advertisements on Google's general search results page and that this limit has not been exceeded does not mean that the competition law may not intervene in the relevant area. This is because that limit is simply a matter of company policy and is not established as a result of a legal regulation. One reason why Google's text ads are more crucial than other ads displayed on any other channel is that Google is the main source of traffic for those businesses which operate over the internet, in particular. This special circumstance allows the restriction of Google's freedom to act when there is a competition law problem concerning Google's general search services, the first page of Google search results, and the top portion of this first page.

(378) In other ad channels, the main goal of the user is to scan the information included in an already-selected source of content instead of accessing the most relevant information, while a user utilizing Google's general search service is actually looking for the most relevant information. For instance, a user visiting an online news site may, while basically trying to access news content, encounter ads which are not directly or indirectly relevant to the content he is looking for on the website in question. The goal is for the advertisement to draw the attention of such a user, and to provide information to the user on the brand, campaign, or the product. Even if the ads in question may draw the attention of the user, they do not regard this as a substitute for accessing the news content. However, in Google search results users enter a query and expect Google to list those results which are most closely relevant to that query. The analyses performed above show that the text ads displayed in this area do substitute organic traffic and that they negatively affect traffic to that area. Thus, providing text ads as part of Google's fundamental search function leads to a situation and outcome that is outside of "normal business practices."

(379) In that context, both usage trends on the Google search results page and Google's way of presenting and displaying text ads cause the ads displayed here to have different effects than ads displayed on other platforms. Since third party studies have revealed that a significant portion of the users did not prefer to see ads (40%) and that those users who did see the ads could not distinguish the advertisement nature of the ad results (59.7%), Google's text ad click-through rates make it clear that this area has been perceived differently by users.

- The Report is mistaken to claim that Google actually moved away from its principle to "provide the most relevant and highest quality results" to its users when displaying ads at the top of the page; displaying text ads at the top of the results page does not detract from the principle of relevancy-based ranking; the area in question is used since the emergence of search services on the internet and is part of the general operation; when selecting and ranking text ads Google does not only take the bids into account but also the relevancy and quality of the ad; no ads are shown if there are no relevant or high-quality ads for a query; it serves Google's interests to display relevant and high-quality ads; click-through

rates would drop if ads were not relevant, making the ads ineffective and generating less profit for Google from the ads:

(380) It was found that, Google did generally select websites relevant to the query concerned in its ads. However, since the bid submitted to the tender is among the factors affecting the ranking, it is clear that the ads in question do not pass a stricter test of quality and relevancy. In fact, the argument submitted by Google on the subject includes the following statements:

“Google search results take into consideration who link to a website as well as how relevant the content of that website is for your search. Our results reflect what is important to the online community, not what we or our Business Partners wish to see.

Besides, even though we believe relevant ads could be just as useful as search results, we do not wish for the two to be confused.

Each ad displayed on Google is clearly labeled and separated from the real search results. Even though advertisers may pay to be displayed higher up in the ad area, nobody can purchase themselves a better position in the search results. Moreover, ads are only shown if they are relevant to the search terms you entered. So you only see the ads that you could use.

Some online services do not believe the distinction between search results and advertising is this important.

But it is very important to us.”

(381) The explanation above notes that Google evaluates organic results differently, that the payment for the ad is an important factor in the ranking of the ads and that Google itself is aware of the distinction between these two types of results. Similarly, the argument quoted above also states that Google selects and positions the ads with an aim to generate the highest revenue.

- The Report essentially proposes that Google dedicate more space to free results by claiming Google allocated too much space to ads; there is no ground for such a statement under competition law; the Report notes that appropriation of the value of Google’s page property does not need explanation and puts forward three arguments in support; the first of these arguments is the power to impose sanctions granted to the Authority under the Act no 4054; the Board’s power to impose sanctions under the Act no 4054 does not grant the Board the authority to invalidate fundamental rights and freedoms; by virtue of overriding other provisions, certain rights (such as essential facility) are in the nature of “fundamental rights,” with some exceptions, which do not exist within the framework of the current investigation; in the current file the opinions in the Report aims to intervene in the basis of Google’s way of doing business and making profits; nor does the Report present a consistent harm theory indicating a restriction of competition in the relevant market; the second argument concerned is the fact that Google’s text ads are different from other types of ads both in terms of format and of their importance for the traffic received by the websites; however this does not change the fact that text ads are still advertisements and that displaying text ads at the top of the

page is how Google finances the search service it provides free-of-charge to the users; besides, restricting text ads on the one hand while emphasizing the importance of them for website traffic would decrease websites' chances to be displayed in the ads and increase the costs of the ads; the third argument claims that the opinions in the Report are no different than those in the Shopping investigation; however, the Authority did not intervene in Google's display of ads at the top of the page in the Shopping investigation; according to the Authority, what made Google's conduct a violation in the Shopping investigation was the fact that the Shopping Unit was Google's comparison shopping service instead of a group of ads; the current investigation does not have this claim; the Report accepts that Google's text ads are not a separate "Google service" but simple advertisements,

- For an infringement to occur, a company must "engage in methods other than those under the normal operation of competition"; the Report claims Google displaying text ads above free results is a practice outside of "normal business practices"; however, without exceptions, all undertakings providing search services around the world, including Google, have always showed ads above free results (since the emergence of search services, where first AltaVista and then Yahoo held dominant position); displaying ads above free results is the essence of the ordinary commercial operation of general search services; besides, the Report fails to explain how Google followed a method other than those comprising the normal operation of competition by displaying text ads at the top of the results page:

(382) As explained above, Google's display of ads was scrutinized not as a *per-se* infringement, but due to its effect on the traffic going to organic results. The effects in question were explained in many different dimensions through quite detailed studies. It would clearly be mistaken to arrive at a universal conclusion that other search engines using similar types of ads would result in similar effects. It is impossible to consider that the effect of an ad displayed on Google, which has a market share of around 95% in the general search services market, would be of the same scale and scope as those displayed on any other search engine or website. In fact, Google has failed to present an economic analysis which suggests otherwise, despite having detailed information on the traffic it directed to websites as well as very advanced data technology.

(383) **In summary, the following statements are made in the argument posed under the title "The Investigation Report fails to establish any restriction on competition stemming from Google's display of ads":**

- The Report claims Google displaying text ads restricts traffic to free results and thus forecloses all websites in the content provision services market; the alleged restriction does not concern the companies competing independently but the various elements on Google's search page and does not fall under the scope of the Competition Law; the Report also does not explain why Google would want to risk the viability of other websites; on the contrary, Google has every reason to wish for

- strong competition between the websites shown in the organic results, since those websites are the potential advertising customers for Google,
- The Report fails to establish a consistent theory of harm caused by Google positioning text ads above free results; the Report claims that Google excludes websites included in the free results by displaying text ads at the top of the results page and that Google's text ads are in competition with Google's free results; the Reports claims that this prevents competition in the "content provision market," which includes all websites, and leads to "concerns about the survivability" of these websites are baseless; the Report does not define the "content provision services" market; competition law aims to protect competition between independent undertakings, but the Report does not discuss whether competition between independent undertakings was restricted; the alleged restrictions concerns the competition between Google's free results and Google's text ads, which Google allegedly restricts by displaying text ads above free results; competition law rules could only apply for restrictions between independent undertakings, not ones within the same undertaking:

(384) It is not possible to consider everything on Google's search results page as a search element and dismiss the efforts of websites in Google's results page to stay in this area. There is significant competition between "these" elements, referred to as the "*different elements on Google's search page*," as well as considerable investment to receive traffic from Google and rank higher. Otherwise, the decisions taken in the EU or Turkey concerning Google Shopping should have been impossible as well. Google's plea means regarding Google Shopping Unit and the websites competing with that area as search elements as well, which is shown by the previous decisions to be an unacceptable approach.

(385) When defining the relevant market it is stated that websites offering different content cannot be seen as substitutes, but a sub-categorization by content was deemed to be unnecessary due to various reasons, including the fact that Google's provision of text ads is not limited to a particular content, the format and limits of ad provision does not vary according to content, it is not practically possible to create a reliable content-based categorization, and content limitations could risk leading to imperfect or late competition law intervention. However, when a query is entered into Google, a type of competition is created between the search results, and it is generally expected that websites with similar content would compete for similar queries. This prevents making a query-based market definition, as well. Regardless of the content entered, each results page leads to eyeball competition between the results. This competition is especially intense for those websites that generate income or operate commercially thanks to the traffic received from here. At the same time, text ads become more meaningful for these types of websites. The information submitted by Google also shows that most of the traffic is switched to text ads, particularly for queries with intense competition. Google's first screens are presented below for the sample query "black-eyed people," which has no commercial meaning, and another sample query, "black umbrella," which does carry commercial value:

Figure 23: Screenshot for the Query “Black-Eyed People”

Google

siyah gözlü insanlar

Tümü Görseller Alışveriş Videolar Haberler : Daha fazla Ayarlar Araçlar

Yaklaşık 3.510.000 sonuç bulundu (0,33 saniye)

www.cnnurk.com > Yaşam

İşte göz renginize göre kişilik testi - CNN Türk

23 Mar 2017 - Koyu kahverengi ve siyaha yakın gözler: ... Mavi gözlü insanlar gelişime daha açık, daha modern ve kolay adapte olabilen insanlar olarak ...

onedio.com > haber > goz-rengine-gore-karakter-analizi-807719

Göz Rengine Göre Karakter Analizi! - Onedio

3 Şub 2018 - Göz renginiz karşınızdaki kişiye karakteriniz hakkında bilgi veriyor!

www.milliyet.com.tr > PembeNar > Yaşam > Püf Noktası

Göz renkleri ne anlama gelir? - Püf Noktası - Milliyet

23 Oca 2018 - Koyu kahverengi ve siyah gözler ... Mavi gözlü insanlar genellikle özgür ruhluurlar ve gelişime, yeniliğe, modern bir yaşam tarzına daha ...

www.sozcu.com.tr > Hayat > Yaşam

Göz rengi karakteri etkiler mi? - Yaşam Son Dakika Haberler

12 Ara 2017 - Koyu kahverengi – siyah gözler: Koyu kahverengi ya da siyah ... Mavi gözlü insanlar sıklıkla çekingen veya savunmasız olarak algılanabilir.

tr.wikipedia.org > wiki > Göz_rengi

Göz rengi - Vikipedi

Koroid ne kadar pigment içerirse gözün rengi o kadar siyaha döner ve ne kadar az ...
Heterokromiya iridis: İnsan ya da çift gözlü canlılarda, iki gözün irislerinin ...
İrisin göz rengindeki rolü · Gözün çeşitli renkleri · Koyu kahverengi göz ...

www.hurriyet.com.tr > Kelebek Haberleri > Hayat Haberleri

Mavi gözlü insanlar hakkında bilmeniz gereken 6 bilgi - Hürriyet

2 Nis 2018 - Mavi gözlü insanların bu farklı göz renklerinden dolayı ne kadar ilgi çekici olduklarını hepimiz biliyoruz. Nadir rastlanan bir göz rengi ...

listelist.com > ListeList Özel

Siyahtan Menekşeye Nadir Rastlanan Göz Renkleri - ListeList

22 Nis 2019 - Siyahtan Menekşeye Nadir Rastlanan Göz Renkleri ... Mavi gözlü insanların irislerinin ön tabakasında melanin bulunmaz ya da çok az melanin ...

Figure 24: Screenshot for the Query “Black Umbrella”

(386) The screenshots above show that even though there is competition between the results themselves on each screen, for queries with a commercial context, text ads are expected to bring a return without being displayed higher, creating competition between text ads and organic results.

(387) When examining the effects of Google’s practices, the most objective data was used to analyze the development in Google’s ad traffic and organic traffic on the macro scale, and the development in the traffic received from different channels for each website on the micro scale.

- The Report is mistaken within its own assessments; the Report defines a separate market limited to search-based text ads; other promotion channels are not seen as substitutes on the demand-side to search-based text ads for users or for advertisers; search-based ads are not substitutable for other promotion channels such as display ads, product ads and free results but the Report conflicts with the market definition by claiming that free results are in competition with text ads:

(388) As a multi-sided platform, Google provides general search services to the users on the one hand, while providing advertisement services to those websites that take out text ads on Google. In that context, the general framework of the market was drawn

for the market where the advertisement service is provided. For that market, other substitutable channels are the advertisement channels which may be related to the market, while substitutable market for the service provided to the consumers are the text ads and organic results which are displayed in the Google general results page in response to a query, providing links to the websites. Both types of results in question basically aims to provide the content the user is looking for. Thus, it is thought that confusing the market definitions made for the different sides of the platform has led to mistaken conclusions.

- The Report does not claim that Google leveraged its market power in general search market to foreclose the content provision services market to competition and benefit another Google service in the downstream; when assessed under this theory, Google had no wish or incentive to restrict competition in the content provision market; on the contrary, having more actors in the relevant market would benefit Google since they would be potential advertisers:

(389) An examination of the general search market in Turkey shows that network effects are quite high, that the market is gradually evolving towards a single player (*tipping*), that multi-homing inclination is quite weak, and that barriers to entry as well as economies of scale are high. Due to these features of the market, by displaying more ads in a format with ambiguous ad labeling, Google can ensure that users continue to use the platform despite the fact that they do not to have a tendency to prefer to see advertisements according to the studies conducted. This allows Google to gradually increase ad limits and average ad numbers. In the final analysis, the findings clearly prove that the losing party is the organic results in this environment where Google is able to steadily increase its revenues. At this juncture, text ads have mostly transformed into a system whereby large-scale websites try increase their share by getting displayed higher on the page, but which only provides those websites that can allocate a sufficient advertisement budget to Google access to the users.

(390) **In summary, the following statements are included in the argument posed under the title “The Investigation Report misidentifies a practice which allegedly constitutes an infringement”:**

(391) In summary, the following explanations and claims are included in the argument posed under the title “Google frequently does not display text ads at the top of the page: Google does not display any text ads for (.....)% of the queries”:

- It is claimed that Google “frequently” displays text ads at the top of the results page and Table 14 and 15 are presented, showing the average number of text ads shown at the bottom and top of a results page to support this statement; this is an erroneous analysis since it only takes into account the queries for which Google displays advertisements; as seen in the table presented by Google, a majority of search queries (more than (.....)%) does not display any ads at all; Google reduced displaying text ads based on query throughout the time (the ratio was (.....)% of the queries submitted in 2016, but corresponded to (.....)% of the queries in 2019); when calculating the denominator in Table 14, all queries should be taken into account but an artificially narrow subset of the queries were taken into consideration; when all queries are calculated, the average

number of text ads displayed at the top of the results page for each query is found to be (.....), which does not exactly match with the phrase “frequently”,

- The failure of the Report to consider the queries where Google does not display any ads, which correspond to a large portion of the total queries, makes the calculations between paragraphs 294 and 296 erroneous and invalid; these calculations do not show the average number of top text ads per query; paragraph 569 makes the same mistake when discussing the Ads Above The Fold algorithm; the Report states that Google punishes websites which showed advertisements with this algorithm; the algorithm operates on the website in general and is built on the aggregated ads shown above-the-fold on all pages; but a majority of the result pages do not display text ads and therefore would not trigger Ads Above The Fold,
- The Report presents three screenshots for result pages displaying text ads on different types of screens (a laptop, a desktop and a mobile phone), stating that Google covered 60% of the desktop’s screen, 80% of the laptop’s screen and 100% of the mobile phone’s screen with ads; however, the Report does not take into account the fact that Google does not show any ads for a majority of the queries (more than (.....)%); Google has no control over the ratio of ads to free results shown on the screens of users; Google can only control the frequency of advertisements and how much space would be used for ads (four text ads for vertical ad spaces); this matter was dependent on many different factors such as the size of the screen, resolution, browser and zoom settings; as seen in the picture submitted, users can control the number of free results they see on the pages through the search settings; even though it seems like text ads takes a larger space on mobile devices at first glance, Google provided empirical studies (attachment 4) showing that, especially on mobile devices, users were used to scroll down in order to find more information - and because it was easy.

(392) As noted above, by displaying more ads for commercially valuable searches, Google makes it harder to reach the users without taking out text ads, particularly for websites dependent on the traffic they receive from the internet due to their commercial activities. In that sense, Google’s behavior is selective. Accordingly, in order to correctly and reliably establish the effects of text ads, it is essential to take into account the click-through rates for the inquires displaying at least one text ad. For instance, when looking for the answer to a question like “what is the impact of global warming on the worldwide tea production,” the analysis must be made looking at the warming levels at the places where tea is produced, not the global warming level. Otherwise, any correlation found would clearly be misleading. Similarly, under the current file the data points taken into account are the click-through rates when ads are displayed and how many ads Google displays on average within the set of queries that are meaningful for those websites trying to receive traffic from Google. The analysis conducted was not limited to this but followed the developments in the traffic for various Google sources at every scale and for each website.

(393) Screenshots are provided above showing Google search results for the queries

“black-eyed people” and “black umbrella”. The second type of query is considered to be valuable for displaying text ads and generating revenues by Google itself as well, and the traffic coming from these types of queries are commercially meaningful. In that context, the explanation that refraining to display text ads for the first query should eliminate any effects on the traffic for the second query does not seem reasonable. This is because these questions do not have equal value. For a query where Google does not display ads, the first organic result gets a click-through rate of (.....)%, while this rate falls to (.....)% when there is at least one text ad. By displaying more ads for most-search queries, Google gets (.....)% of the total clicks for these queries. This shows that not all queries are equally valuable. Special care was taken to use the most objective indicators possible by taking the volume of traffic instead of the number of queries as the basis of the calculation, since it was thought to be a more reliable source of data within the framework of the file.

(394) The following table includes the display rate of text ads for queries other than e-commerce and e-trade queries.

Table 25: Display rate of Text Ads for Queries Other Than E-Commerce and E-Trade Queries

Month	E-Commerce queries ⁷²	Queries displaying at least one text ad	Display rate of text ads for e-commerce queries (%)	Display rate of text ads for non-e-commerce queries (%)
Jun.14	(.....)			(.....)
Jul.14	(.....)			(.....)
Aug.14	(.....)			(.....)
Sep.14	(.....)			(.....)
Oct.14	(.....)			(.....)
Nov.14	(.....)			(.....)
Dec.14	(.....)			(.....)
Jan.15	(.....)			(.....)
Feb.15	(.....)			(.....)
Mar.15	(.....)			(.....)
Apr.15	(.....)			(.....)
May 15	(.....)			(.....)
Jun.15	(.....)			(.....)
Jul.15	(.....)			(.....)
Aug.15	(.....)			(.....)

⁷² Google provided the following explanations on the queries in question:

- Due to the complexities in the process of retrieving the data from Google’s systems, data from before June 2014 could not be calculated.
- The response was prepared based on data sampling the queries submitted on the second Wednesday of each month between June 2014 and December 2019. Consequently, the number of monthly e-commerce queries were calculated by multiplying the number of queries submitted on the second Wednesday of each month by the number of the days in the relevant month.
- This calculation methodology can be seen to have resulted in a number lower than normal for September 2016, since the second Wednesday of September 2016 was during Eid al-Adha and therefore the search volume was lower than normal.

Month	E-Commerce queries ⁷²	Queries displaying at least one text ad	Display rate of text ads for e-commerce queries (%)	Display rate of text ads for non-e-commerce queries (%)
Sep.15	(.....)			(.....)
Oct.15	(.....)			(.....)
Nov.15	(.....)			(.....)
Dec.15	(.....)			(.....)
Jan.16	(.....)	(.....)	(.....)	(.....)
Feb.16	(.....)	(.....)	(.....)	(.....)
Mar.16	(.....)	(.....)	(.....)	(.....)
Apr.16	(.....)	(.....)	(.....)	(.....)
May 16	(.....)	(.....)	(.....)	(.....)
Jun.16	(.....)	(.....)	(.....)	(.....)
Jul.16	(.....)	(.....)	(.....)	(.....)
Aug.16	(.....)	(.....)	(.....)	(.....)
Sep.16	(.....)	(.....)	(.....)	(.....)
Oct.16	(.....)	(.....)	(.....)	(.....)
Nov.16	(.....)	(.....)	(.....)	(.....)
Dec.16	(.....)	(.....)	(.....)	(.....)
Jan.17	(.....)	(.....)	(.....)	(.....)
Feb.17	(.....)	(.....)	(.....)	(.....)
Mar.17	(.....)	(.....)	(.....)	(.....)
Apr.17	(.....)	(.....)	(.....)	(.....)
May 17	(.....)	(.....)	(.....)	(.....)
Jun.17	(.....)	(.....)	(.....)	(.....)
Jul.17	(.....)	(.....)	(.....)	(.....)
Aug.17	(.....)	(.....)	(.....)	(.....)
Sep.17	(.....)	(.....)	(.....)	(.....)
Oct.17	(.....)	(.....)	(.....)	(.....)
Nov.17	(.....)	(.....)	(.....)	(.....)
Dec.17	(.....)	(.....)	(.....)	(.....)
Jan.18	(.....)	(.....)	(.....)	(.....)
Feb.18	(.....)	(.....)	(.....)	(.....)
Mar.18	(.....)	(.....)	(.....)	(.....)
Apr.18	(.....)	(.....)	(.....)	(.....)
May 18	(.....)	(.....)	(.....)	(.....)
Jun.18	(.....)	(.....)	(.....)	(.....)
Jul.18	(.....)	(.....)	(.....)	(.....)
Aug.18	(.....)	(.....)	(.....)	(.....)
Sep.18	(.....)	(.....)	(.....)	(.....)
Oct.18	(.....)	(.....)	(.....)	(.....)
Nov.18	(.....)	(.....)	(.....)	(.....)

Month	E-Commerce queries ⁷²	Queries displaying at least one text ad	Display rate of text ads for e-commerce queries (%)	Display rate of text ads for non-e-commerce queries (%)
Dec.18	(.....)	(.....)	(.....)	(.....)
Jan.19	(.....)	(.....)	(.....)	(.....)
Feb.19	(.....)	(.....)	(.....)	(.....)
Mar.19	(.....)	(.....)	(.....)	(.....)
Apr.19	(.....)	(.....)	(.....)	(.....)
May 19	(.....)	(.....)	(.....)	(.....)
Jun.19	(.....)	(.....)	(.....)	(.....)
Jul.19	(.....)	(.....)	(.....)	(.....)
Aug.19	(.....)	(.....)	(.....)	(.....)
Sep.19	(.....)	(.....)	(.....)	(.....)
Oct.19	(.....)	(.....)	(.....)	(.....)
Nov.19	(.....)	(.....)	(.....)	(.....)
Dec.19	(.....)	(.....)	(.....)	(.....)

(395) The first conclusion to draw from the table above is the fact that the number of e-commerce queries are steadily increasing. According to other information in the file, the share of e-commerce queries within all queries are also increasing in time (June 2014, (.....)%; July 2016 (.....)%). Secondly, Google’s text ad display rate in e-commerce queries is quite high in comparison to non-e-commerce queries. In fact, at least one text ad was displayed in around (.....)% of e-commerce queries in January 2016, but this ratio is around (.....)% in December 2019. The decrease in question is shown to be due to the Shopping Unit. On the other hand, at least one text ad was shown in (.....)% of non-e-commerce queries in December 2019. These data support the observation above. A significant portion of the traffic to those websites which operate their commercial activities through website traffic has been switched to text ads by Google, making organic traffic a non-reliable source of traffic for these websites.

(396) In addition, according to information submitted by Google, websites are prevented from placing ads on certain subjects by Google’s advertising policies and the relevant legislations. Google’s explanation notes that “*advertisements promoting (i) counterfeit or dangerous products and services (such as pleasure-inducing narcotics, psychoactive substances, equipment intended for drug-use, weapons, ammunition, explosives and fireworks or tobacco products); (ii) inappropriate content (for instance, racism, animal abuse, murder, self-harm or extortion and blackmail); or (iii) fraudulent conduct (for example hacking software, forged documents or academic fraud services)* are prohibited, that Google’s advertisement policies also restrict certain content and features in order to comply with local regulations, that pharmaceutical advertisements and political content may be given as examples in this matter, and that Google Ads policies are publicly available. Under these circumstances, Google’s set of advertisable queries contain a significantly smaller number of queries than the set of all queries. In that context, it would also be unreasonable to argue that the advertisable content was unaffected based on the lack of advertising for the

(399) **In summary, the following statements are included in the argument posed under the title “Free traffic redirected to websites in Turkey did not decrease, but rather rose up”:**

- Google displaying text ads do not decrease free traffic, which showed an increase of (.....)% each year between 2011 and 2018; thus, the claim that traffic was down did not reflect the truth, and it mistakenly looked at the ups and downs of a fluctuating time series instead of taking into account the improvement through time,
- Charts titled “Clicks on Text Ads on the Google General Results Page in Turkey” and “Clicks on Organic Links on the Google General Results Page in Turkey” provide data on the number of clicks on free results and text ads on Google; it would be mistaken to claim that the current situation “raised significant concerns related to the survival of websites by organic links” based on the observation that click-through numbers for text ads “steadily and rapidly increased” and that text ad traffic rose up in comparison to free traffic,
- Despite the rise in paid traffic, a large portion of the clicks Google directs to websites are made up of free traffic; as shown in Table 16, free traffic to text ads is above (.....)%; clicks made on text ad make up a small fraction ((.....)%) of the traffic; it is not possible to take seriously the claim that websites are unable survive due to the fact that Google generates revenues from (.....)% of its traffic via text ads in order to support its free search services,
- Text ad clicks increased faster than clicks on free results due to the fact that text ads started from a much smaller base and starting point; in fact, between 2011 and 2018, free clicks increased by (.....), while text ads showed an increase of (.....) during the same period;
- The claims concerning the decreasing trend in the share of the traffic websites received from organic traffic are based on CTR data; click-through rate data is not the same thing as clicks (traffic); click-through rates refer to the total clicks divided by display number; text ads are displayed much less than free results; free results are shown for all queries while text ads are shown in response to less than (.....)% of the queries; it is impossible to make sound inferences based on display-based CTR data; similarly, since the fact that Google does not show any text ads at all for a large proportion of the queries is not taken into consideration, the Report’s discussion on the click-through rates for results connected to the display of a text ad are also mistaken:

(400) Table 15 shows that the number of organic search queries, reaching (.....) in January 2017, fell down to (.....) by July 2019. This shows a general reduction trend in organic traffic and that corresponds to a trend independent of the data fluctuations. Below, the relevant chart is shown once more. The organic search traffic, displaying a rapid growth until 2013, began to fall in the second half of 2013, stayed generally horizontal in the period from the start of 2015 to the end of 2016, and then started to decrease. In fact, it can be seen that the traffic in July was quite close to the number in January 2011, which was the start of the period under examination.

Graph15: (.....)

(.....TRADE SECRET.....)

(401) As shown once more in the chart below, in light of the fact that the number of general search queries in Turkey is constantly increasing, organic results seem to be the losers of this market, since they are getting a smaller piece of the growing pie and thereby getting even smaller in a real sense.

Graph17: (.....)

(.....TRADE SECRET.....)

(402) The size of the text ad traffic in comparison with the organic traffic grew rapidly, reaching (.....)% of the organic traffic by July 2019. As mentioned above, there is intense competition between the positions in Google's general search results page and, for those queries which would generate demand for Google's text ads, this traffic volume which the Plea argues would not have the potential to cause an impact, would correspond to a significantly high scale for those websites trying to compete with Google's text ads. Besides, based on the rate of increase in the text ad traffic, those websites currently not in competition with Google's text ads will likely be negatively affected by Google's text ads in the future. This is because the findings of the file show that Google has been increasing the density of its text ads.

- In order to support the claim concerning the drop in the traffic, third-party data is used for click-through rates of free results at different rankings, but all of these studies were intended to measure the click-through rates of free search results and were not in fact related to text ads:

(403) The third-party studies used were intended to reveal the general relationship between ranking in the Google's general search results page and the clicks received. The assessment also took into consideration similar data submitted by Google. In addition, Google's own data support the analyses made by third parties.

- Text ads shown at the top get fewer clicks than the free results displayed below these ads, and Google has directed around (.....) times more clicks to free websites than to text ads since 2011; click-through rates of free results on Google were around (.....)% in 2018 with the click-through rates for text ads at (.....)%; free results shown at the top had a click-through rate of (.....)%, but the text ads displayed at the top had a lower click-through rate of (.....)%, which point was also emphasized by the undertakings contacted within the framework of the investigation,

(404) Text ads displayed at the top having a lower average click-through rate than an organic result in the same position can be interpreted to mean that consumers do not wish to see ads. In fact, the observation that Google's organic traffic provides a higher purchase conversion rate than AdWords for a majority of websites may be in support of this conclusion. On the other hand, the effect of displaying text ads on the click-through rates of organic traffic has been shown clearly.

(405) **In summary, the following statements are included in the argument posed under the title “Text ads ensure gradually increasing clicks to websites that choose to participate in those ads”:**

- Due to the growth in free search traffic, clicks on text ads do not replace clicks on free results; in fact, text ads actually increase the clicks directed to websites, leading to an expansion in the supply/output; this expansion increases consumer welfare and creates more opportunities for users and websites,
- There is a reference to a study stating that (.....)% of paid traffic was “incremental” with organic traffic and that “even if organic results are at the top, ads ensure incrementality with significant numbers of clicks”; the study examined the state of organic traffic volume in the absence of search ads and found that, in the absence of search ads, around (.....)% of the traffic generated from search results could not replace organic traffic; that text ads created significant output expansion for websites.
- There is a reference to a study which is the continuation of the incrementality study, which concluded that a majority of the ad clicks for the websites displayed among the free results at the top are incremental; this shows that text ad clicks serves to expand output and increase traffic to the web; however, the study was misinterpreted to infer that “Google could display ads unrelated to the query;” this was a topic not covered by the study; instead, the study arrived at the opposite conclusion, noting that the text ads were “query-based,” “constantly improving” and “of high-quality”.
- It is stated that if a website “is ranking at (.....)th or lower on the results page for a *query, its chance for a click are very low if it did not place an ad*”; however, the study concluded that websites ranking at (.....)th or (.....)th in the organic results could increase its clicks by (.....)% if they placed a text ad; moreover, even when websites are shown at the top among the free results, they can get significant amounts of additional traffic by placing text ads:

(406) Click-through rates of organic results are provided with relation to queries which do not display ads and which display at least one ad, and organic results in the second set have been found to lose clicks. In that context, the grounds of the explanation that if text ads are displayed, they create an exclusive type of demand without in any way affecting organic traffic could not be understood. The study referenced in **Document 20/213-217** presents the additional rate of traffic a website would get if it took out an ad on Google, broken down according to its ranking in organic results. It is noted that ad clicks lead to an increase of (.....)% if it is at the top of the organic rankings, (.....)% if it is ranking around (.....), (.....)% if its ranking around (.....) and (.....). This point is explained many times in the Plea. (See: “... *the study concluded that even where websites were shown at the top in free results, they could acquire significant additional traffic by placing text ads as compared to where they were displayed above free results but did not take out ads.*)

(407) Nonetheless, it is thought to be impossible to conclude, from the study in the document, that these clicks would not switch to organic results if the relevant ad was never displayed. The argument in the Plea about creating additional demand is taken

to refer to how much additional traffic would be gained by a website that has lost traffic any way, under the assumption that Google would always display the same number of ads in the advertisement area. However, the present file is examining the effect of Google covering this area with advertisements on organic traffic, and an assessment under such an assumption is out of the question.

(408) On the other hand, there has been no conclusion that text ads were “of high-quality,” “superior” and “constantly improving,” and the relevant phrases are included in the explanations made by undertakings when listing their reasons for preferring Google’s general search services over competing search engines. Besides, ignoring the integrity of the assessment to address the issue based on individual phrases and taking these phrases out of their context would only serve to conceal the bigger picture of the file.

(409) **In summary, the following statements are included in the argument posed under the title “The cost of taking out Google’s text ads did not gradually increase, but instead fell down in a real sense”:**

- The costs of text ads are constantly increasing, with the average cost per click rising from (.....) TL in 2011 to (.....) TL in 2019; however, this analysis does not take inflation into account, only noting that a single unnamed website’s ad costs increased while its volume stayed the same; such a situation would not be observed under a larger assessment,
- Cost-per-click (CPC) for getting displayed in Google’s text ads did not increase but instead fell down in a real sense; an escalation based on the Turkish Statistical Institute indices reveals that the average cost-per-click set by Google for text ads actually dropped by around 15% since 2011; traffic directed to advertisers increased by 500% during the same period; thus, more traffic was provided to websites in return for less costs:

(410) The argument claims that CPC did not increase in a real sense, based on the inflation rates. However, it is clearly not reasonable to present inflation itself as a cost increase, without actually pointing out an increase in Google’s costs. Otherwise, would result in artificially raising prices based on inflation, in other words, an attempt to lay the legal groundworks for opportunism, which is clearly impossible to accept.

(411) Additionally, the total marketing costs of the expenses websites made for Google’s text ads, as well as their share in total costs and the evolution thereof were also examined. Consequently, under the assumption that Google is not the only undertaking that “can be affected by inflation,” the economic dependency on Google and the real size of the budget expanses were analyzed with this method, as well.

(412) **In summary, the following statements are included in the argument posed under the title “Google’s text ads provide beneficial and effective promotion opportunities for Turkish websites”:**

- It is mistaken to claim that Google displaying text ads harmed the websites in the ads and that websites shown among the free results would benefit from Google not displaying any ads or displaying less ads in a separate area:

(413) The file does not examine the effectiveness of text ads compared to other types of ads, but instead focuses, among other claims, on the effect of the ads in question

on the organic traffic, which the websites primarily prefer, and which is a sustainable source of traffic. Besides, the suggested remedies do not aim to completely prevent these ads, but to ensure that they are displayed on a scale and in a form that would not exclude organic traffic.

(414) **In summary, the following statements are included in the argument posed under the title “Text ads provide high-quality and efficient promotion opportunities for Turkish websites”:**

- Google’s text ads are accepted to be of a higher-quality and superior nature to other types of ads; the Report’s claim of pressure on advertiser budgets were groundless; during the preparation of the Report, many undertakings stated that “*Google’s text ads are of high quality and better than other text ads,*” within the framework of the examination on whether Google’s texts ads were substitutable with competitors’ text ads:

(415) The file does not include an observation that text ads were of high-quality for websites and provided them with effective promotion opportunities. The quotes in the Plea are statements from undertakings concerning whether search-based advertisement services provided by other search engines could substitute the service Google has been providing. In other words, these statements are comparisons between the search-based advertisement services of Google and competing search engines, and they do not constitute opinions on which is the highest quality advertisement service providing the most effective promotion opportunities. In addition, a look at the statements of the undertakings in general shows that Google’s advertisements are preferred compared to other search engines not because of their quality or effectiveness, or the lack of quality in the rival’s advertisement services, but because Google’s power in the general search services market is important to the advertisers wishing to reach more users, i.e., because of the undertakings’ dependency on Google due to network effects.

- Google’s text ads provide significant advantages to the undertakings using them; these advantages include quality-based ranking, advertisers being charged not when the ad is displayed but per each click, the ability to utilize multi-faceted targeting which grants businesses to target regions and times in order to find the right consumers, the ability of advertisers to create personalized messages for users, the ability budget control, providing improved data tools for ad campaigns allowing advertisers to monitor their own campaign performances, (.....); sector reports also confirmed the benefits of Google text ads for Turkish businesses,
- A study conducted by OC&C Strategy based on more than 250 interviews performed with Turkish websites which used Google text ads found that Google ensured growth and increasing income for websites, allowed higher return from ad investments, allowed undertakings to compete with larger rivals, and increased productivity:

(416) According to the Turkish Linguistics Society, advertisements are all methods used to promote something to the public, for making the public like it and thus ensuring a demand for it. In other words, advertisement are all types of promotion activities made through various channels, aimed at introducing, selling, etc. to the target audience certain goods, products and services (internet, television, newspapers, etc.).

Thus, if Google's text ads provide certain benefits to websites, this is only natural. The file fundamentally focuses on the exclusion of organic results rather than on whether Google's text ads were more or less advantageous than other types of ads. As a result, studies based on the advantages or disadvantages of direct text ads vis-a-vis other advertisement models have no bearing on the subject. However, if a comparison is to be made, the benefits of text ads versus organic results must be analyzed. Conversion rates of organic results and text ads have been examined and, as explained in detail, a majority of websites have seen higher conversion rates from organic traffic than from text ad traffic. This indicates that despite their more advantageous positioning in comparison to organic results, text ads cannot perform better than organic results in directing users and/or websites to what they are searching for.

- Claims of putting pressure on websites' costs due to the large share of text ad expenditures in total ad budget were invalid and baseless; since the tables and figures showing the share of text ad costs within total marketing costs and total costs are blacked-out in the Report, Google is unable to comment on these findings and Google's right to defense was violated; therefore these tables should not constitute a basis for the decision; according to Google, the data shows that advertisement costs varied for different websites; for some websites ad costs went up while for others they went down; regardless, the data shows that websites engaged in marketing activities in other channels, which does not support the claim that the situation put undue pressure on websites' costs,
- It would be wrong to just analyze the share of a website's budget allocated to advertisement; in order to correctly assess ad investments, the Authority should look at how much return the investment brought for each Turkish Lira:

(417) The redaction of the figures and table in question does not prevent Google's right to defense or its ability to comment. Evaluations of the figures and tables concerned are included in a way that would protect the trade secrets of the undertakings while allowing Google to exercise its right to defense.

(418) Google's text ad costs correspond to (.....)% and more of the total marketing costs for 21 websites out of 42. As mentioned in various places before, the decrease in the text ad expenditures of some websites is due to their switching to Google's other advertisement products, such as Shopping. Besides, for the first eight months of 2019, the share of the traffic (.....)% of 32 websites got from Google in their total traffic was above 60%. Consequently, even if websites engaged in marketing activities in other channels, they get a significant portion of their traffic from Google and they allocate a significant part of their marketing budget to Google's text ad services, which clearly reveals their dependency on Google and explains how Google created "an element of pressure" on websites.

(419) Focusing on return on investment may be the right approach when attempting to establish the investment profitability of a website. However, the file is not trying to establish whether the investment websites make in text ads is profitable. Deciding whether an investment is meaningful is for the companies themselves to do. The file examined whether websites were forced to allocate an ever-increasing budget to Google in order to gain traffic and looked at the place of Google text ads in the companies' marketing budget, showing its growth throughout the years and revealing

the dependency on Google text ads.

- The Authority's file includes empirical findings showing websites which took out Google text ads gained (.....) times additional value when compared to websites which did not; an additional study provided found that Booking.com was able to significantly increase its profitability in Turkey by placing text ads with Google:

(420) The presentation format for Google text ads pushes websites' organic results down on the page. Once a website wishing to reach customers becomes dependent on text ads, the fact that text ads increase websites' income would not necessarily mean that text ads are useful. The academic studies provided as an example investigate the case where a website earns more than the amount it spent on advertisements. The real benefit of text ads may only be established by comparing the effects in a world where text ads do not exist with the effects in a world where they do.

(421) Besides, the Booking.com example may be misleading in terms of the conclusions drawn. That is because Google displays the Local Unit product in the space where Booking.com is active. As a result, Booking.com's organic results are pushed even further down on the page due to the display of both the Local Unit and the text ad (in comparison to a query where the Local Unit is not displayed). It is likely that Booking.com resorted to text ads in order to compensate for falling lower on the results page, i.e., in order to continue receiving traffic. In that case, it would not be correct to conclude that text ads increase Booking.com's revenues, based on the fact that Booking.com was forced to operate through paid traffic due to losing a significant amount of visibility as a result of Google's actions.

(422) In summary, the following statements are included in the argument posed under the title "Google's text ads are a tool for small businesses to gain traffic, grow and compete with their larger rivals that rank higher in free results":

- It is claimed that Google's display of text ads are harming small players since it is hard for them to compete with larger players due to budget restraints; Google's text ads allows smaller players to be shown higher in the page in particular; this fact is actually confirmed by the market inquiry conducted by the Authority as well as by the concrete data in the Authority files and by third party reports; many successful websites in Turkey grew their business through text ads in the beginning; websites such as (.....) received a lot more traffic from text ads than from free traffic during the first few years, and it was only later that the text ad share fell down and the free traffic increased:

(423) Even though, at first sight, it may be thought that text ads could allow smaller websites to place above organic results and thereby be useful as a tool for them to compete with their larger rivals, examination of the traffic show that smaller players lack the opportunity to increase their ad traffic at the same rate as the ad traffic of mid-sized firms. This is because, especially for highly competitive queries, it would be unreasonable to expect that smaller players participating in the same tender with large- and mid-sized players can allocate a budget comparable to their rivals.

(424) The opinions of the players in the sector reveal that even though text ads allow small players to rank higher, these small players bidding in the same tender with large players to place ads have a very limited opportunity for that due to budget restraints,

and that in the final analysis text ads had disadvantageous results for them.

(425) As mentioned before, it is natural for text ads, or any other advertisement model, to create traffic by facilitating the promotion of websites. Consequently, accepting the claim that text ads have a positive contribution to websites would not lead to the elimination of the exclusionary effect the presentation of text ads have on organic results. The concern in the file is not whether ads are useful for websites, but the fact that the websites' dependency on text ads to reach users has been increasing since their presentation format pushes organic results down the page. Moreover, regardless of their presentation, even if it is assumed that text ads are useful for small websites, small business-owner risk being unable to take advantage of this service that might benefit them to the extent mid- and large-scale rivals can because of the budget restraint they face, especially for queries that see intense competition. The data in the table included in the Plea are in support of this observation. An examination of the table in question shows that paid search traffic shares are (.....)% for large-scale websites, (.....)% for mid-scale websites, and only a very low (.....)% for small websites.

(426) The text-ad traffic of the websites offered as examples in the plea ((.....))show a constant tendency to fluctuate. The lack of stability of the text ad traffic suggests this is not a sustainable source of traffic for smaller websites.

(427) **In summary, the following statements are included in the argument posed under the title “Google’s text ads increase competition between advertisers and reduce prices for consumers”:**

- The objections against Google’s text ads are erroneous because it is accepted that advertising through text ads have “*pro-competitive effects*”; sections of the Report discussing bidding on brands include phrases which confirm these effects; even though these sections make the observations in question on brand advertising, they actually concern all advertisements in the general sense; this is because any restriction on all text ads would indirectly lead to restrictions on brand advertising via text ads; this would eliminate its benefits for small-scale companies including the ability to target users, reaching new customers and promoting themselves,
- Some academic studies found that advertising increased price sensitivity of consumers and thus increased competition between advertisers and reduced prices; restricting Google’s ability to position its text ads would lead to advertisers paying more to get a slot in a decreased number of spaces, decreasing output, increasing prices and reducing competition:

(428) The assessment that Google’s text ads increase competition between advertisers is made with relation to placing ads in brand-based queries. Bidding for brand-based keywords allow other players offering similar products and services with the searched brand to find a limited opportunity to promote themselves, and as such, users get a chance to see competing options. Especially for small-scale brands/websites, placing ads on other brands may be beneficial to gain recognition by the users, and the practice in question may have some pro-competitive effects within

that framework.⁷³ However, the quotes used to support to argument are the assessments of undertakings not concerning text ads, but on placing text ads on brands. At this juncture, it should also be noted that around 67% of the undertakings does not view this practice in a positive light.

(429) It is not clear why a restriction on text ads that might be introduced would have a negative impact on the benefits of brand advertising. In fact, an infringement was not found concerning the claim in question in light of the fact that it is impossible to clearly define the parties that could place ads with brand names, that the practice of placing brand-based advertisements has certain pro-competitive aspects, and that the effect of the practice in question may be eliminated through other legal regulations.

(430) However, one of the goals of the file was to terminate the exclusionary effect text ads have on organic results on the general search results page. This is expected to lead to organic results becoming more visible for users as well as to a decrease in text ad dependency, instead of advertisers paying more for text ads and increasing consumer prices. As an indirect consequence of this on the consumers, the increasing visibility of organic results for the user would naturally decrease the demand for paid text ads, which would decrease marketing costs and positively affect the cost pressure on the websites.

(431) **In summary, the following statements are included in the argument posed under the title “In any case, Turkish websites are not dependent on Google to generate traffic”:**

- Google’s reason for algorithm changes was not to force undertakings take out AdWords ads; this would not be reasonable in an economic sense; compromising the quality of search results would risk Google’s long-term success and popularity; Google has a strict and fundamental principle not to have the design and ranking of search results be affected by matters related to ad income; the teams developing the search algorithms are clearly and strictly separated from the teams responsible for the ads; the only criteria for search teams is if the change has a positive impact on the quality of Google’s results; free traffic to e-commerce websites have significantly increased; the claims that the algorithm changes were intended to generate revenue through AdWords are completely in conflict with that point; e-commerce websites receive

⁷³Within the framework of the file, it has been found that undertakings’ taking out ads with other brands led to the allocation of larger budgets to advertisements and even though the brand-owner has the chance to rank higher in organic results, it had to incur advertisement costs, even where third parties do not submit any bids, resulting in a situation disadvantageous for organic results. On the other hand, it was also concluded that limiting which parties can take out ads with brand names was complicated for Google due to various factors, including the fact that queries that include brand names are not defined separately, the fact that different websites may have the same domain name (with .net, .com and .org extensions), the fact that brand and product names may be the same (such as flower.com), the fact that a brand may be sold through more than one channel or retailer, etc.

traffic from various sources and in a distributed manner, and claiming that they are dependent on Google is rather far from the truth:

- The largest source of traffic for the websites in Turkey is claimed to be Google by a large margin; the sources of traffic for small-, mid-, and large-scale undertakings in Turkey are presented in support of this claim; that Google's right to defense and ability to comment are prevented due to all of the data being redacted,
- Google re-calculated the traffic source analysis based on Similarweb data and the outcomes did not agree; Google is a small source of traffic for websites; non-navigational free traffic corresponds to 7% to 27% of Turkish websites, and this means websites are not dependent on Google:

(432) Examination of the current traffic structures of the websites that were sent information requests under the file reveals that they get most of their traffic from Google, and that this situation did not change through time, apart from a few exceptions. However, the share of Google's different traffic sources within the total traffic of websites may change through time. This means that when Google displays a product ad at the top of the page, websites try to receive traffic from that ad. The more text ads are shown, the larger the ad budget websites allocate to receive traffic from this space. All in all, they endeavor to get the highest amount of traffic from Google, which is a source of traffic that is not easily substitutable. Consequently, it is not possible to conclude that showing more ads would result in Google losing traffic. Besides, the file also examined ad perceptions of consumers in relation to text ads, and found that both the consumer awareness on this subject and the presentation of these ads by Google led to a reduction in the chance of this space being perceived as an advertisement. It is natural for organic traffic to increase due to the increasing internet use and e-commerce volume, but the rate of increase in organic traffic is significantly below that of ad traffic. Therefore, from a counterfactual point of view, in the absence of Google's practices which were found unjustified within the scope of the file, organic traffic should be expected to be higher.

(433) Redaction of the relevant data does not prevent Google's right to defense and ability to comment. Evaluations of the data concerned are included in a way that would protect the trade secrets of the undertakings while allowing Google to exercise its right to defense.

(434) The analysis Google carried out using Similarweb data concluded that websites received only 7% to 27% of their total traffic, according to size, from Google's free traffic, and therefore websites were not dependent on Google.

(435) The data used in the analyses conducted were collected from the relevant websites. The point of note here is the fact that when trying to determine the sources of traffic for a website, the best possible way is to collect the information directly from the website concerned. A website is more likely to provide better data about its own operation than a third-party website. A second point is that even though the Plea had an excel attachment including the calculation concerning the classification of small-, mid- and large-scale websites, it is not clear how various factors concerning the traffic data (direct, non-navigational free traffic, paid search traffic, etc.), such as the amount, calculation method, etc. were calculated in the relevant table. Even though the Plea notes that the data used as the basis for the analysis are included in the attachment, the relevant attachment could not be found and therefore a sound evaluation of the

data could not be conducted. Third, even if all the data provided are assumed to be correct, the relevant table shows that the share of paid traffic received by small websites are quite smaller in comparison to mid- and large-sized websites. This point is also in support of the observations made.

(436) Lastly, analysis conducted with data directly provided by the relevant websites reveal results different than the Similarweb data. In summary, the analyses conducted definitely showed that Google has a very significant share in the traffic of all undertakings, whether small, mid-sized or large. This is because it was found that 60% of the traffic to (.....) of the websites analyzed was coming from Google. In addition, it was also observed that the share of the traffic websites receives from all ad channels other than Google (other comparison shopping sites, other search engines, social media, individual, display/banner, natural ads, etc.) within their total traffic is mostly smaller than the share of the traffic received from solely Google text ads. Even though the traffic websites receive from all ad channels owned by Google has been increasing proportionally, the share of the traffic they receive from other ad channels do not seem to follow a similar trend. In fact, the share of other ad channels within the traffic to large-scale undertakings receiving significant amount of traffic is generally decreasing. A similar trend is also visible for small-scale website traffic as well.

- The Report claimed that “*the traffic small-scale websites receive from text ads are lower than relatively higher-traffic websites*”; this conclusion was due to the websites selected from the “small-scale undertaking” category created in light of the text-ad click number acquired from Google; a re-classification of websites taking their whole traffic into account shows that the share of traffic from paid sources was higher for small-scale websites (16%) when compared to large-scale websites (1%), proving the importance of paid ads for small-scale undertakings to gain traffic:

(437) The Plea argued that text ad traffic for small businesses were found to be lower since websites were classified according to text ad traffic. First of all, it should be noted that, for the relevant analyses, the Authority requested from Google the names of websites which received the most text ad traffic in 2018 and acquired 90% of the total text ad traffic in the relevant year, as well as the annual total text ad traffic for each website. Based on the response received, data was requested from those websites which gained the most traffic, a medium amount of traffic and relatively the least traffic from Google text ads within the relevant list of websites submitted. The goal of following this method was to understand the views and actual status of firms of all sizes which were informed and had experience of Google’s text ads. Afterwards, the websites in question were grouped into small-/mid-/large-sized categories according to their total traffic. In other words, the grouping of the websites was not done based on the text ad traffic as mentioned in the Plea, but on the total traffic.

- There was claims of “*If you want to do business you have to place ads with Google,*” “*websites were unable to use other sources to gain the traffic they could or could not receive from text ads*”; if this were the case, the suggested measures would only harm the relevant websites; under such circumstances, the traffic websites get from these ads would fall down and prices would go up; it was hard to understand why there was an effort to make it harder for Turkish websites’ gaining traffic despite noting that it is impossible to replace the traffic coming from text ads:

(438) The file does not include an observation that “it is impossible to replace traffic from text ads.” The file examines the text ads Google displays at the most valuable spot on the search results page in a way that makes their advertisement nature hard to determine in terms of the dependency they cause for websites. Consequently, the required measures are intended to prevent the anti-competitive effects of the ads in question over organic traffic, not to prevent undertakings from gaining traffic via text ads. It is hard to understand how and why the required measures would complicate the websites’ gaining traffic from text ads.

I.4.4.3. The Argument That “Placing Ads Through Text Ads Affected the ‘Neutrality’ of Google’s Ranking of Free Results” is a Claim that is Factually Incorrect and Misplaced

- One of Google’s main principles is to ensure that their commercial relationship with websites is not affected by the ranking of the free search results; Google holds a strict and fundamental principle that their decisions on the design and ranking of search results should not be affected by considerations related to ad revenues; the team developing search algorithms was strictly independent and separate from the one responsible for the ads:

(439) In order to examine the relevant claim asserted under the file in a more tangible manner, tests (A-B test) and analyses were conducted within the Authority. However, there has not been sufficient evidence to show that websites’ rankings in organic results were affected by their placing text ads on Google. Consequently, no infringement is found concerning the claim in question at this stage.

I.4.4.4. The Argument That “Google Caused Ambiguity Concerning the Advertisement Nature of Text Ads” Was an Unfounded Claim that Should not Lead to Concerns under Competition Law

- The theory in the investigation report is mistaken from the start; free results and text ads are not separate companies in competition with each other; one of the fundamental principles of competition law is that different elements of the same undertaking cannot compete against each other:

(440) As mentioned above, the websites on Google’s search results page cannot be considered to be just an element of search. Text ads and organic results compete against one another in response to a query entered by the user. That there is a kind of competition between the two types of results is established by the data submitted by Google. The user is looking for the most appropriate answer to the content he is searching for, within a limited amount of time. As shown by the studies conducted and by the data Google supplied, the user generally tries to find the content he is looking for on the first screen and at the top of the page. In that sense, the way and density with which Google positions and displays its text ads can affect the traffic going to the organic results, which are in competition with these ads.

(441) **In summary, the following statements are included in the argument posed under the title “Google clearly indicates text ads as advertisements and Google’s ad labeling is significantly superior to other online platforms”:**

- Google clearly and openly notes the paid nature of its text ads; Google's labeling is superior to the labeling other online platforms, including Google's rivals, used for labeling the ads on their own pages; other online platforms had much lower standards for indicating paid content, using smaller typefaces and sometimes even inconsistent labeling; most websites did not label paid content or ads at all:

(442) The gradual transformation of Google's text ads, i.e., AdWords, was demonstrated previously. As explained in detail, AdWords gradually began to look like organic results in terms of look and presentation. The dominant position Google holds in general search services is close to a monopoly and thus puts a particular kind of responsibility on Google's actions. Therefore, the effects of a conduct by any other platform on the market should not be expected to be comparable to the effects produced by a conduct by Google. The preliminary condition for an intervention under Article 6 of the Act no 4054 is that the undertaking under investigation must hold a dominant position.

- Google emphasizes the paid nature of its text ads in the ads area; it has been showing these ads at the top of the general results page since the 1990s; unlike some search services, it does not mix its ads into the unpaid results so as to make them indistinguishable from each other; it indicates the advertisement nature of its ads by clear "Ad" labels; it also uses pop-ups and windows to indicate the advertisement nature of text ads; when the user brings the cursor on the ad a pop-up appears to explain "Why this advertisement?":

(443) The transformation of the text label has been previously explained and requires no further elaboration. Since the issue at hand is that a user cannot distinguish whether a result on the page is an ad or not, the fact that the user can bring the cursor over the icon and get the advertisement information that way is not a solution that can eliminate the concerns identified. In that context, the argument Google put forward without providing any data on the actual impact of these pop-ups in the real world does not eliminate the effects of the conduct under examination.

- Google went beyond the requirements in the guidelines of international regulatory authorities, including the US Federal Trade Commission, the UK Competition and Markets Authority, the French Union of Advertisers and the German Telemedia Law; it is also in compliance with the Turkish rules regulating advertising; its conduct is in line with the rules of the Commercial Advertisement and Unfair Commercial Practices Regulations; the Board of Advertisement accepted that Google AdWords did include an ad label in many decisions; Google's advertising practices were never considered problematic; the Supreme Court noted that Google's "Ad" label was easily legible in one decision:

(444) The Supreme Court decision quoted in the Plea is not a decision directly about Google, and Google is not a plaintiff or defendant in that case. The decision does not include a comprehensive examination on the legibility of the "ad" label and does note that it was misleading even if it was legible. On the other hand, the Supreme Court decision is from 2016, after which date Google made more than one change to its labeling format, bringing it closer to organic results. Also, the Supreme Court decision is not of a nature that would restrict the Board's power of assessment within the

framework of the Act.⁷⁴

- The investigation report does not ultimately object to the fact that Google clearly indicated the paid nature of text ads with easily understandable labels, positioning and pop-ups; the investigation report objects to the ad labeling based on three reasons, (i) the Report claims that Google gradually transformed the look of its text ads, however Google, as an innovative company, is always making improvements and the issue is not whether Google's ad design changed but whether Turkish consumers could understand these designs on which point there was no evidence shown; (2) the Report also claims that text ads have some advantages before organic results (the top positioning of the ad area, higher character limits and additional details), which means the Report contradicts itself by both stating that the ads are indistinguishable from free results and that they had different features; (3) the Report made use of anonymous comments where "*undertakings*" (not Turkish consumers) complained from Google's text ad labeling, but a decision should not be based on quotes from unidentified undertakings; the Report arrived at the conclusion that there was uncertainty without testing any Turkish consumers:

(445) In its Plea, Google does not provide a reasonable justification for the changes it implemented gradually in the labeling of text ads, and neither does it put forward a statement that the emphasis on the ad nature of the section was not gradually reduced. The file includes detailed statistics and consumer behavior, observing the change in click-through rates under the scenarios where ads were and were not placed with the same word. In addition, it is a well-known fact that ad click-through rates drop down in those countries where there is high internet literacy. This can be interpreted to mean that users do not prefer ad results because they do not find them useful.

(446) **In summary, the following statements are included in the argument posed under the title "Claims concerning the display of text ads relate to consumer protection and do not fall under the jurisdiction of competition law":**

- The display and labeling of Google's text ads falls under the Turkish Code of Commerce no 6102 and the Act no 6502 on the Protection of the Consumer and were not within the jurisdiction of the Competition Board:

(447) The file examines whether Google ads harm effective competition in the market,

⁷⁴The relevant section of the Supreme Court decision is as follows: "*As a result of an examination of the claims, pleas, expert reports and the whole contents of the file, the Court found that when the phrase, which is owned by and is a registered trademark of the plaintiff, is searched on the Google search engine, the website www....., owned by the defendant, appeared on the search results at the top of the page, before the plaintiff, under the heading Turkey's Website, accompanied by the label Ad. Even if the ad label was written in a legible it was not sufficient to prevent internet users from assuming the ad was placed by the plaintiff trademark holder. Under the circumstances, an internet user of average attention, intelligence and information clicking on the phrase on the search engine could easily connect the plaintiff'scom website to the defendant's www.....budur.com website and think that the defendant's website was part of the plaintiff's website...*"

not their impact in terms of unfair competition. The same conduct may violate different legislations on different grounds, and there is no rule which says a conduct that is legitimate under one legislation may not be in violation of another legislation. In that context, it is not possible to assume that a label which fulfills the minimum criteria as determined under the Turkish Code of Commerce no 6102 and the Act no 6502 on the Protection of the Consumer cannot lead to concerns under the Act no 4054. The claim that Google AdWords ads manipulate user clicks by their labeling features to the disadvantage of their rivals in competitive terms requires examination under the Act. This is because Google's ambiguous labeling can make ads to look more relevant than they are, decreasing the traffic to organic links.

- The claims of "misleading the consumer" do not fall under the Act not 4054 as mentioned in the Board's *Carrefour*, *Birtaş Otomotiv*, *Metro Turizm* decisions; unlike the *Google Shopping* decision, the current file does not include a claim that the labeling of text as disadvantaged the rivals in the market; the claims noted that the labeling caused ambiguity for consumers but did not argue that they caused anti-competitive harm by foreclosing the rivals from a Google service:

(448) In consumer law legislation, misleading the user is a sanctionable act on its own. However, the act examined within the framework of the file is not that of misleading the consumer on its own, but the resulting increase in the level of dependency of websites on text ads and the decrease in their organic traffic.

I.4.4.5. The Argument That the Behavioral Measures Were Disproportionate to the Asserted Abuse and Would Harm the Websites in Turkey

(449) **In summary, the following statements are included in the argument posed under the title "The proposed measure stipulates changes in both 'the scale and/or position' and in the labeling of text ads, which is not proportionate to the asserted abusive behavior":**

- The Authority's power to impose behavioral measures is limited by the principle of proportionality; there must be a balance between the measures imposed by the Board and the behavior claimed to have infringed the Act no 4054; if the Board can stipulate a milder measure that can terminate the alleged infringement, then the measures under Article 9/1 of the Act no 4054 could not be imposed on the undertaking, measure stipulated exceeds the scope of the asserted abusive behavior and is therefore disproportionate,
- The Report does not claim that the positioning and labeling of the text ads had different effects and therefore does not evaluate positioning and labeling as separate abusive acts; positioning and labeling are addressed together as an abusive conduct; where users do not perceive text ads as free results, the claim in the Report alleging that these two types of results "*competed*" with each other would be left groundless; therefore the risk of market foreclosure in content provision services would be eliminated; in brief, the concerns mentioned in the Report can be eliminated simply by Google improving the labeling of text ads; however, the Report asks Google to both change the positioning and improve the labeling of text ads despite the previous point; these demands exceed the scope of the

abuse; the infringement can instead be terminated by eliminating the alleged “*ambiguity of the advertisement nature of text ads,*” without making any changes in the positioning of the text ads:

(450) The file basically concludes that Google gradually obscured the advertisement nature of ads, which are positioned at the most valuable section of the general search results page, and that the dense placement of text ads in this space complicated the operation of organic results, which were in competition with the text ads for the same area. When arriving at this conclusion, Google was found to have engaged in unjustified behavior that would lead to anti-competitive effects in this direction. This behavior is part of a whole and has parallel effects. In that sense, the proposed behavioral measures were prepared with an aim to find the most proportionate method of intervention that would eliminate these effects.

(451) **In summary, the following statements are included in the argument posed under the title “The measure stipulating that Google change ‘*the scale and/or position*’ of its text ads is ambiguous, would harm Turkish websites and would reduce Googles incentives to invest and innovate”:**

- The Report does not include a clear explanation on how to fulfill the demand that “*Google display its text ads on a scale and/or in a position where they would not foreclose the market to organic results*” in practice; the sole recommendation of the Report was that “*a reasonable criterion*” would be adherence to the Google’s “Ads above the Fold” algorithm; text ad positioning is currently already compliant with this draft measure proposal of the Report,
- There is no evidence showing that the current display of text ads excludes free results; Google therefore has trouble understanding what kind of changes were necessary; if the recommendation is as for Google to change the location of its text ads from the top space to somewhere else or to reduce the number of text ads displayed, this would be an assessment based on completely wrong information and views and it would also be harmful for Turkish websites:

(452) Within the framework of the file, it is noted that there is more than one reasonable remedy for Google’s anti-competitive actions. Therefore, the requested remedies are drawn up to give some freedom of action to Google. In light of the anti-competitive effects Google caused by the queries for which it displayed text ads and the picture presented by the cases where the aforementioned ads are in competition with the organic results, Google’s argument that the “Ads above the Fold” algorithm was in compliance was insufficient. The file examined the trends in the organic traffic received from Google by websites of all levels of traffic, and observed that, despite the increase in the websites’ total traffic, organic traffic decreased for websites with large-, mid- and small-scale traffic in a descending order. This shows that it is more difficult for users to access the “real content” due to the fact that a large section of Google’s initial screen displays advertisements.

- The cost of being displayed in text ads is determined via second-price auction; prices are a factor for Advertisers who wish to be displayed in the ad area; if the cost to advertisers would increase if the ad area was restricted or reduced and it is hard to understand why the Authority wanted such an outcome:

(453) The file examined Google's actions concerning the text ads because of their effects on organic traffic. In that sense, it is expected that websites' dependency on text ads would disappear if Google took the necessary steps to eliminate those effects. In that case, the cost of text ads would probably not rise, and they may even fall. Thus, Google's expectation that reducing the scale of text ads would increase demand is not deemed to be reasonable. The goal of the measures is to implement the most efficient and proportional behavioral sanction in order to prevent text ads foreclosing the market to organic results.

- Interviews conducted with advertisers, marketing reports, the data in the Authority's files, academic studies, case studies, market studies and the Report itself includes many pieces of evidence confirming the quality of Google's text ads as well as their benefits for Turkish businesses; they allow small- and mid-sized businesses to compete with their larger rivals; displaying fewer text ads on a worse location would make it harder for small-scale websites to acquire traffic and compete with larger businesses; this could result in the reduction or complete removal of pro-competitive effects:

(454) Some players in the sector noted that text ads allowed small players to get closer to the top in a short time. However, the analyses conducted shows that despite acquiring relatively less traffic, small players were unable to increase the traffic coming from the ads at the same rate as that of mid-scale firms' ad traffic, even within that limited amount of traffic. This is because, especially for highly competitive queries, it would be unreasonable to expect that smaller players participating in the same tender with large- and mid-sized players can allocate a budget comparable to their rivals. Additionally, in light of the fact that Google displays more text ads for queries where competition is more intense (which are more frequently searched), it is believed that small-scale websites who cannot place as many text ads as websites with a larger budget would end up losing visibility and traffic. When assessing whether text ads are substitutable with other types of advertisements, the file included opinions from websites concerning why they preferred text ads compared to other forms of advertisements. However, the file does not include any observation that the ads in question were of higher quality or more relevant than organic traffic, or that consumers preferred to see more of them. In fact, the file quoted observations demonstrating the opposite fact.

- The Report found that there was a level of ambiguity in the traffic websites received from Google's free results due to Google making constant legitimate and appropriate updates and improvements to its algorithms; it would be more difficult and costlier for Turkish websites to use text ads as a more definite source of traffic within the framework of the measures specified in the Report:

(455) With this argument Google confirms one of the points of complaints within the scope of the file. This is the claim that websites are forced to use text ads due to the ambiguity in organic rankings stemming from Google's algorithm updates. Google has, in effect, paraphrased a point of complaint about its conduct as "without text ads undertakings would miss out on this safe harbor," thereby confirming the validity of the complaint.

- The proposed measure which stipulates changing the location of text ads intervenes in the commercial sustainability of Google's search services in Turkey; Google can only provide free search services to the users if it can generate revenue from the results page in an appropriate manner; if Google is unable to generate this revenue, it would be harder to recoup the significant expenses and costs it spent on updating and developing its services in Turkey, which would decrease its incentives to innovate:

(456) Based on the effects stemming from the location and number of text ads, a measure that would leave some freedom of action to Google should be expected. This should not impact Google's incentives to make innovations in text ads. As mentioned above, the file endeavors to establish the fairest balance possible by taking into account the innovation incentives of not only Google, but also all businesses which need to receive traffic from the internet.

(457) Especially for digital markets, innovation is one of the criteria used for measuring welfare. The Competition Authority must support innovation incentives not only for Google, but for all businesses in the markets. In that context, it should be clear that when dominant undertakings remove rivals' incentives to innovate and prevent competition under the guise of innovation, they cannot be immune from the Act. Moreover, the conclusions drawn are not of a nature that would punish or prevent Google's innovations.

I.4.4.6. The Argument that the Investigation Report Was Mistaken in Suggesting Administrative Fines

(458) **In summary, the following statements are included in the argument posed under the title "There is no need to impose administrative fines, since the theory adopted by the Report is a new one that has not been reflected in the previous case-law, since Google did not have anti-competitive intent, and since Google's conduct is beneficial for the users and advertisers":**

- The theory of the Report is a new one that has not previously been reflected in the case-law; Google does not have anti-competitive intentions and its conduct benefits users and advertisers; the established approach in international competition law practice for those files involving new harm theories or theories that differ from the previous decisions of the authority is not to impose administrative fines; the German Competition Authority did not impose an administrative fine after finding such an infringement in the recent Facebook Germany case; the investigation report does not refer to any elements (principles, case-law, previous practice adopted in the Turkish law) that would allow it to conclude that Google's display of text ads at the top of the search results page is illegal, and neither did it include a legal discussion of the matter or claimed that the undertaking previously engaged in a unilateral conduct which was found to be an abuse of dominant position,
- Google could not possibly know ex-ante that the behavior described in the Report is an infringement under the Turkish law; various authorities around the world took decisions stating that Google's conduct actually increased competition as explained in Attachment 14 to the Plea; the authorities did not find the advertisements restrictive,

- The investigation report does not establish restriction of competition by intent or neglect; intent or negligence is the prerequisite for imposing administrative fines; the Act no 4054 does not foresee administrative fines if an infringement is not caused by intent or by neglect; any interpretation to the contrary would be in violation of the legality principle which requires a narrow interpretation of punitive laws; the Board itself emphasized the importance of demonstrating anti-competitive intent in many of its decisions; European Courts ruled that the intent or negligence condition was only fulfilled where the company under investigation “could not possibly be unaware of the anti-competitive nature of its own action” or where it “knew that its actions caused a competition law infringement”; the file did not present any evidence demonstrating anti-competitive intent,
- The investigation report does not take into consideration the benefits of Google’s conduct to users and advertisers; sanctioning a company for its pro-consumer conduct would give the message that such behavior is not welcome in Turkey; innovation would be discouraged due to concerns that the Board would impose fines for them:

(459) The following actions by Google examined within the framework of the file were found to have prevented competition in the content services market:

- Google has made it harder to compete for those websites in the content services market which did not place ads with Google by displaying increasingly frequent text ads in the general search results page,
- The display format of text ads caused ambiguity concerning the ad nature of the results in question,

(460) The Guidelines on the Assessment of Exclusionary Abusive Conduct by Dominant Undertakings (Guidelines) state that the assessment concerning the exclusionary conduct, in general, is based on examining whether the dominant undertaking’s conduct led to actual or potential anti-competitive market foreclosure. In that framework, the file examined the effects of Google’s practices in the market to see whether these practices, which were found to be unreasonable, violated the Act no 4054.

(461) The observations and assessments of file took into consideration the provisions of the Guidelines and looked at whether Google made it harder to compete for those websites which did not place ads with Google. The relevant theory of harm focuses on whether those effects exist. Under the current circumstances where the effects concerned were demonstrated to exist, it was decided that the Act no 4054 was violated. On the other hand, the justification that Google did not previously know that the practices in question constituted a violation under the Turkish competition law does not change the fact that the relevant conduct was indeed a violation and required sanctions. Undertakings must act as prudent merchants and thus cannot excuse their behavior by their lack of knowledge about the law. Besides, dominant undertakings are considered to have a "special responsibility" not to allow their conduct to restrict competition. Undertakings are expected to operate within the boundaries of this special responsibility.

(462) In terms of intent or negligence, Google carried out its concerning activities systematically, empirically and professionally, not unintentionally. The phrase “Acts

punished with fines might have been committed intentionally or in negligence” included in the grounds for Article 16 of the Act no 4054 is by way of example and does not point to an obligation. In addition, Article 16 of the Act no 4054 clearly states that “To those who commit behavior prohibited in Articles 4, 6 and 7 of this Act, an administrative fine shall be imposed...”.

(463) Lastly, it is not true that the benefits of Google’s conduct for users and advertisers were not taken into consideration. Innovation is among the most important criteria in measuring consumer welfare. One of the benefits expected from competition is to encourage innovation and ensure technological improvement. If this can be done, the resulting social benefit would be increasing consumer welfare or protection of the consumer. Turkish competition law regulations are intended to serve this purpose as well. However, it should be clear that when dominant undertakings remove rivals’ incentives to innovate and prevent competition under the guise of innovation, they cannot be immune from the application of the Act. When implementing their innovations, undertakings must take competition law provisions into account in addition to the provisions of all other relevant regulations. Moreover, the conclusions drawn are not of a nature that would punish or prevent Google’s innovations.

(464) **In summary, the following statements are included in the argument posed under the title “In case the Board does impose administrative fines, these fines must be set at a very low amount”:**

- If the Board does decide to impose an administrative fine despite all of the above, the Board should evaluate all of the facts of the case correctly and should not set an administrative fine much above a symbolic amount,
- The base fine must be calculated on the basis of a concrete and clear relevant product market; the Board’s general approach is to take the sales value of the undertaking based on its total turnover in Turkey but in the Corporate Loans decision the Board only took the revenue generated in the affected market; this file also requires the adoption of a similar approach that only takes into account the revenue generated from clicks on text ads,
- Since it is not possible refer to some harm within the framework of competition law, the aggravating multiplier should be set at the lowest value; this is confirmed in the Board’s Citroen Dealers and Sodaş decisions; the base fine should be set at the lowest level of 0.5% for this case in which the market is not defined clearly, no evidence of harm is presented, and it has been proven that Turkish users and advertisers benefited,
- Google’s close cooperation with the Investigation Committee is another mitigating factor,
- The alleged infringement continued for a limited period of time; the justification concerning the duration depends on the Investigation Committee’s assumption shaped by the undertakings’ subjective information; AdWords’ launch date cannot be considered the starting date of the infringement; the Report claims that competition in the “content provision services” market was eliminated by (i) the fact that Google generally shows text ads at the top of the general results pages, (ii) the alleged effect of text ads on the ranking of free results and (iii) the

insufficient labeling of text ads; these three factors should not be addressed separately for the purposes of determining the starting date of the infringement since they were parts of a single theory of harm; the insufficient labeling factor did not come into play until the changes in 2016 and 2017; moreover, the lack of market definition made it impossible to establish the estimated duration of the market effects correctly,

- The administrative fine should not be increased due to recurrence; the Google Android Decision is currently in appeal and cannot be a basis for recurrence claims without a final court decision; as a general rule, the penalty procedure requires that recurrence provisions be interpreted in a narrow sense and to the advantage of the organization facing potential fines; the infringement in the Android Decision is not similar to the violation alleged in the current case and therefore cannot be the basis for recurrence; the European Commission Guidelines on Fines also adopts a similar practice; the Board's recent Shopping decision did not agree with the request to increase the fines due to recurrence and it should not be considered for the current case either:

(465) Article 5.1 of the Regulation on Fines (Regulation) states that the base fine would be calculated, based on the annual gross revenue of the undertaking generated at the end of the fiscal year preceding the final decision, or if that cannot be determined, at the end of the fiscal year closest to the date of the final decision. On the other hand, if the investigation results in an administrative fine, then it is at the Board's discretion to decide whether the fine should be set over the total turnover or over the relevant product market comprising the subject matter of the investigation. The legislation itself does not have a regulation requiring that the turnover in the relevant product market be taken as the basis.

(466) According to the Plea, the Report claims that competition in the "content provision services" market was eliminated by (i) the fact that Google generally shows text ads at the top of the general results pages, (ii) the alleged effect of text ads on the ranking of free results and (iii) the insufficient labeling of text ads, and that these three factors should not be considered separately for the purposes of determining the starting date of the infringement since they were parts of a single theory of harm. Google informed the Authority that AdWords was launched in 2004 in Turkey. On the other hand, in order to make better use of the data submitted by the undertakings, the file carried out its analyses using the 2013-2019 data when a relatively larger number of undertakings could submit information. Even though Google states that the element of insufficient labeling emerged in 2016 and 2017 and that the duration of the violation should be calculated based on those dates, it is thought that the behavior in question developed as part of a process. Additionally, Google held dominant position in the general search services market during the period covered by the analyses and its conduct had been ongoing. In that sense, the duration of the infringement is evaluated to be longer than five years.

(467) Articles 15 and 16 of the Act no 4054 grants the Board the power to conduct on-site inspections and request information. For the effective use of these powers, undertakings must comply with the Act no 4054, and otherwise administrative fines may be imposed under Article 16 of the Act. Thus, undertakings are under a legal obligation to facilitate the use of the relevant powers. For the assistance rendered by

the undertaking during the investigation to be considered a mitigating factor when setting the administrative fine, a step beyond the legal obligations must be taken. It is the conclusion of the Authority that the assistance in the investigation in the current file did not exceed what was necessary in accordance with the legal obligations and hence it would not be appropriate to consider that assistance as a mitigating factor when setting the fine. The on-site inspection carried out during the preliminary inquiry phase and the responses to the information and document requests of the rapporteurs during the on-site inspection, preliminary inquiry and investigation phases are within this framework and did not have a facilitating effect beyond what was obligatory under the law. During the information request process, Google generally applied for additional time for the provision of the information, and nearly all of the additional time requests were granted. In some cases, Google only provided partial information with the justification of the challenges and complexities of the data retrieval process.

(468) The observations and explanations concerning the arguments against the implementation of the recurrence provisions are included in the investigation report sent to Google. Paragraph 2 of Article 55 of the Act no 4054, titled “Judicial Review against Decisions of the Board,” provides that “Judicial review against decisions of the Board shall not cease the implementation of decisions, and the follow up and collection of administrative fines.” For the application of the recurrence provisions, neither the Act no 4054 nor the Regulations stipulate judicial certainty. A decision of the Council of State concerning a different administrative sanction notes that the decisive factor is whether judicial certainty is clearly specified as a condition⁷⁵. The Plea points out that the relevant decision was about the implementation of an old provision of the Encouragement of Tourism Law no 2634 and should not be applied to the case at hand but does not explain its position. In that decision, the Council of State makes its ruling referring to the regulations in the relevant Law. Specifically, it refers to the provision “appeals and annulment cases do not cease the collection of the fine”, which is similar to the provision of Article 55 of the Act no 4054. Accordingly, it is thought that there is no need to await judicial certainty in terms of the decisions taken by the Board which serve as the basis of the recurrence ruling. In conclusion, administrative certainty is sufficient⁷⁶.

(469) *The Volkan Metro Turizm* decision referred to in the Plea in support of its position that decision must be finalized involves the application of the recurrence provision based on a Board decision taken concerning a different conduct of the same undertaking. That decision does not state that the decision needs to be finalized for the application of the recurrence provision but instead simply notes that the nullity suit

⁷⁵ 1st Chamber of the Council of State, E. 1996/189 K. 1996/218, 15.11.1996: “... The issue rests at which date the fine would be assumed to be imposed: as the law does not specify that the fine be finalized judicially or administratively, it is natural for the administration to make an official report based on the date of notification to the persons concerned or authorized, and consider that date as the start of the one year period. In fact, this view is confirmed by the phrase “appeals or annulment cases do not cease the collection of the fine” in Article 31(b) of the Law. The possibility that the fine imposed could be annulled by the administration or by the court in case of an appeal does not introduce an obligation on the administration to await the conclusion of the appeal or lawsuit process, and moreover such an understanding would result in the de facto non-implementation of Article 33(f), which would lead to a practice that is in conflict with the phrasing and intent of the Law.”

⁷⁶ Haluk ARI, Esin AYGÜN, Competition Journal 2009, Rekabet Kurulu’nun Ceza Yönetmeliği: Yeni Bir Dönemin Ayak Sesleri p.31-32.

was rejected.

(470) On the other hand, the recurrence provision in the Regulations should not be assessed on the basis of the Turkish Penal Code (TPC) and the general theory of crime. The Act does not refer to the TPC on the application of the recurrence provision, and neither does the recurrence system for increasing administrative fines as specified in the Act resemble the concept of recurrence regulated under the TPC, which is about the conditions for the execution of a sentence.

(471) The Regulation does not limit the application of recurrence to where the violation is carried out in the same markets and/or through similar behavior with previous violations of the undertaking. It is not necessary for the violation incurring the recurrence clause to be similar in nature with the conduct causing the application of the recurrence. A review of the positive regulations did not reveal a provision suggesting such either. The conclusion to be drawn must be that recurrence is not about the act, but the person concerned. Consequently, it is believed that an increase in fines can be applied regardless of whether there is a difference between the types of violations concerned.

I.4.4.7. The Argument that the Investigation Report Violated Google's Procedural Rights

(472) **The following statements are included in the argument which claims that the confidentiality of the complainant's identity and the details of the alleged damages restricted Google's right to defense:**

- Keeping the identity and the details of the alleged damages confidential within the framework of the file restricted Google's ability to respond and make counterarguments, preventing the full use of the right to defense:

(473) Article 5.7 of the Communiqué no 2012/2 on the Application Procedure for Infringements of Competition states that "*The applicant may request to stay anonymous. In such a case, the identity information of the relevant party or any other information which may lead to the disclosure of its identity shall not be included in any of the correspondence made, including intra-Authority correspondence*". Therefore, it is not possible for the Authority to reveal the identity information of the applicant. Ensuring the protection of the interests of the applicant unavoidably results in some limitations in terms of the use of the right to defense. On the other hand, it is thought that the conduct that allegedly resulted in the competition infringement was clearly defined and that the due use of the right to defense was facilitated.

(474) **The following statements are included in the argument posed under the title "Google's right to defense was violated since Google was not allowed access to the file and the information presented against Google were highly redacted":**

- Google had the right to access the data and evidence presented against it fully and unconditionally as part of a fundamental and irrevocable element of the right to defense; in its Second Written Plea, Google requested access to the file in order to assess the contents of the file and respond to the relevant documents; less than 12 working days was given to Google for this process; 90 documents were only allowed access at

the premises of the Authority by taking notes, with most of the contents therein redacted,

- Due to the reasons above, Google was denied one of the fundamental procedural rights, namely that of reasonable access to the file; Google was not allowed access to even the redacted versions of a majority of the documents; the documents including interview records, response letters and complainant interview records were not provided to Google; this violated Google's right to defense and the equality of arms principle,
- On the other hand, most of the content submitted against Google was redacted; the quantitative content, tables and figures used in the claims against Google were blacked-out; the identities of the complainant and of the third parties who submitted their views were kept confidential; the report referred to materials from a later date than the current investigation to which Google did not have access; some of the substantive assessments concerning the substitutability relationship between online and offline advertisement in the Investigation Report referred to a thesis written by Emircan Aksakal, a competition expert of the Authority; Google was prevented from duly exercising its right to defense since the relevant work had not been published and was not accessible by Google,
- As confirmed by the Board in its decisions, *"the Board may not base its decisions on issues about which the parties have not been informed and granted the right to defense,"* (Article 44.3 of the Act no 4054), the redactions in question prevented Google from examining and confirming the claims and building a defense:

(475) Even though the Report was received by Google on 19.12.2019, the application under the Communiqué on the Regulation of the Right of Access to the File and Protection of Trade Secrets (Communiqué No: 2010/3) was submitted on 10.01.2020. The decision concerning that application was notified on 23.01.2020. Thus, the claim that Google was granted insufficient time to respond to the relevant documents under the Plea is baseless. Moreover, the representative of the undertaking was also sent the "complaint petition" for the relevant application, a version of the Investigation Report with the data relevant to Google unredacted - with the exception of those containing business secrets belonging to other undertakings which Google would not be able to reproduce - as well as the unredacted versions of the table "The Share of Traffic from Google in Total Traffic - Breakdown of Undertakings" and the chart "Breakdown of the Traffic Rates from Google (%)," both of which were prepared in accordance with the response letters submitted by the undertakings. In addition, Google's representatives examined 90 documents under the supervision of the attending rapporteurs at the Ankara headquarters of the Competition Authority on 30.01.2020 between 09:45-12:45. The rapporteurs emphasized that the Google representatives could be granted additional time to examine the documents at the Authority, but they noted that they did not need additional time and did not submit a request.

(476) Another group of documents were kept inaccessible because they had the nature of in-house correspondence and included the business secrets of other undertakings and/or there were requests for anonymity. On the other hand, since the necessary evaluations were provided concerning the information and documents

requested by Google but were kept inaccessible due to the above concerns, Google's right to defense was not violated. In addition, traffic volumes of websites they received from Google were collected from the relevant websites and were provided to Google since this was data that Google could also easily acquire itself.

(477) For the purposes of the current file, Google is a main source of traffic for website. Traffic from Google is essential for the undertakings in question to maintain their operations. In that context, it must be noted that undertakings were sensitive about the information they provided and the interviews they took part in, and they were insistent on the confidentiality of their information and opinions. The data in the file proves that this sensitivity was understandable and reasonable.

(478) Additionally, the relevant product market definition benefited from the opinions of many sector representatives, as well as from the sector reports and various sources in the literature. The competition expert thesis titled "Market Definition in Online Advertising and Potential Competitive Concerns," written by a member of the Authority's professional staff was used as a literature opinion on the types of online advertising in addition to the many other sources that made a contribution to the file, and since it was not essential for the claims or conclusion of the investigation, there has been no infringement on the right to defense.

(479) **The following statements are included in the argument posed under the title "The Investigation Report is continuously and comprehensively dependent on the opinions and explanations of third parties who aim to protect their own interests, without conducting independent analyses or assessments":**

- Significant suspicion should not be adequate if the existence of a violation is not supported with sufficient evidence; the legal certainty principles require that the Authority evaluate the evidence with an independent and critical approach,
- The burden of proof for an infringement of Article 6 of the Act no 4054 falls on the Authority itself and it is required to present conclusive evidence beyond any reasonable doubt; this point is established in the recent Ankara Administrative Court decision which annulled the Board's *Sahibinden* decision; the Administrative Court referred to the Council of State's well-established case-law which defines the standard of proof as "*clear and definite evidence beyond any reasonable doubt*"; the Court annulled the Board decision since the decision lacked substantial criteria for assessing whether the so-called "*reliable data, sufficient and convincing evidence*" and "*clear evidence indicating the existence of the infringement*" met the required standard of proof mentioned above; the decision is in line with the established case-law,
- The Board's Medical Gas decision notes that third party statements are not sufficient to prove the existence of an infringement unless supported by evidence; the Board does not take into account the statements of some old and discontented customers of the undertaking under investigation in the 3M decision and did not consider them acceptable evidence since it found them to be significantly biased; these standards of proof are not followed in the current investigation report,

- The Report simply confines itself with repeating the claims of the anonymous complainant and a group of other parties; the Investigation Report carefully selects the accusatory statements of third-party undertakings and ignores those statements which conflict with its own theory and supports the undertaking's innocence:

(480) It is a natural process within the framework of the investigation to collect data from those websites which were directly affected by Google's practices, and which had information about the relevant market or the preferences of the consumers, and the real problem would arise if this process was skipped. Nonetheless, the information and documents collected from the market players and the statements of the third parties on their own were not deemed sufficient to come to a conclusion or opinion when identifying the (potential) impact of each claim and practice. Many additional assessments, studies and data analyses were conducted during the process.

I.4.4.8. Assessment concerning the Documents Acquired during the On-site Inspection and the Attachments of the Plea

(481) Explanations and Arguments Submitted concerning the Documents Collected during the On-site Inspection

- The documents collected during the on-site inspection does not conflict with Google's position or made its views invalid; the Notification includes an assessment which states that **Document 20/207-211** (Mobile Site Speed Update) showed that all algorithm changes could be announced in detail; this was mostly dependent on the change in question, as mentioned before; the document explained that mobile search rankings would emphasize website speed as a signal; the studies indicated this; the announcement of this detail would not allow misleading content producers and bad-faith actors to game Google's systems; Google's public announcement concerning the Mobile Speed update does not conflict with its refusal to announce the technical details of Panda and Penguin; the document did not support the claims and should not lead to any competition law concerns:
- **Document 22** (.....) did not discuss search algorithm changes; (.....); Google informed those who could be affected by the experiment even though it was not required; this announcement would not lead to the manipulation of the search algorithm or to the loss of business secrets; the document did not support the claims and should not lead to any competition law concerns:
- **Document 22** (Retail Vertical Study) was not relevant to the claims included in the notification, that it did not show that Google violated Article 6 of the Act no 4054.:
- **Document 20/213-217** showed that a less well-known or newly established firm could increase its potential to attract more customers by placing ads that especially smaller businesses could benefit from purchasing ads from AdWords; nothing in the document indicated that AdWords use affected the rankings of free results:
- The Notification concluded that **Document 20/88** indicated "(.....)" took a larger space in the search results page in comparison to normal text ads;

it is noted that the concerns related to Google's ad display would intensify in this ad model but no justification was offered for this conclusion; (.....) is an experimental feature that is not yet launched; (.....); the document proved Google's constant innovation in the field of advertising:

- Under Document 20/212, it is claimed that it was problematic for Google to encourage companies to invest more in AdWords and that Google explained to advertisers the advantages of placing ads with the keywords for their own brands; this was not in fact the case; explaining the benefits of an advertising opportunity to advertisers only allowed them to make an informed decision on whether or not to make use of that opportunity which is the essence of competition:
- Similarly, **Document 20/108** showed that brand-based advertisements could increase the traffic to a website and thus they were a more useful and valuable marketing choice; the correspondence in **Document 20/133-134** and **Document 20/112-115** showed that Google tried to assist with solving the issues some websites could encounter and they were all far from revealing a competition law infringement; **Document 20/47** showed that smart phone usage was high and around (.....)% of the consumers started to look for products via Google Search; the relevancy of the document with the points mentioned in the Notification was not established; the Notification did not arrive at a negative conclusion under **Document 20/49-50**, which showed that most product discovery started with non-Google sources such as direct visits to e-commerce sites; the relevancy of this Document with the claims was not established and it was not explained how Article 6 of the Act no 4054 was violated:

(482) As emphasized at each stage of the file, there has never been an expectation that "all algorithm changes could be announced..." and the relevant document is included solely as an example for the types of cases where and how Google can provide information. The file expresses in detail the concerns related to Google choosing not to announce its major updates.

(483) It is clear from Google's Plea that Google is able to notify those parties who could be affected by the update "as a matter of courtesy". The relevant portion of the document in question was included to show when and how Google can provide information.

(484) **Document 22** is important since it supports the observations made within the framework of the file. The relevant section of the Document shows that Google has been displaying text ads in more and more queries and that the reason for the reduction in the number of text ads was a switch to Shopping ads. Besides, the Document also shows that the cost per click for text ads, which Google claims did not increase in a real sense in light of the inflation rates, was due to the display of increasingly frequent Shopping ads.

(485) **Document 20/213-217** may be seen as Google's summary of the observations made. The Document shows that text ads provide (.....)% more clicks, even if the relevant undertaking is at the top of the organic results. Moreover, the statements of the customer in the Document reflect their concern about text ads eliminating organic clicks.

(486) The claim examined in the investigation notification in connection with **Document 20/88** is the allegation that organic results would be pushed further down, and websites would become more dependent on AdWords. The document does not state that the advertisement type in question had been implemented. The claim examined is not believed to be connected to whether Google is innovative in the advertisement space. In addition, the information in the file shows that Google's method of displaying text ads had expanded to include more information.

(487) The document concerned clearly encourages websites to take out ads with own brands or with the brands of others. Placing brand-based advertisements is discussed in detail. Thus, the file took into consideration what is written in the documents instead of the fact that the document was written. The document notes that paid clicks largely eliminated free organic clicks, stating that "organic search shares are overtaken by (.....)% of the paid clicks and (.....)% of the paid conversions".

(488) Not every document included in the investigation notification was intended to prove the infringement claims. Some were included as an indication or because they were relevant to the observations made.

(489) **Explanations and Arguments Offered within the Framework of "Attachment 1: Protection of the Right of Property and the Freedom of Contract as Fundamental Rights under Turkish Law"**

- One of the main claims in the investigation report is that Google abused its dominant position by "displaying text ads on the general results page in a position and at a number that would foreclose the market to organic results," in order to prove this claim the Report argued that "Google gradually monetized the general results page and websites were increasingly choosing these paid channels"; according to the Report, Google must display its text ads "at a scale and/or in a location that would not foreclose the market to organic results,"
- Any obligation on Google to allocate less space to ads would have the de facto effect of confiscating Google's property rights over its valuable search page; this would lead to a violation of the fundamental rights protected under the Constitution of the Republic of Turkey (Constitution) and the European Convention on Human Rights (ECHR):

(490) Under Article 6 of the Act no 4054, the Board may impose obligations on undertakings to prevent a dominant undertaking from abusing its dominant position and to ensure effective competition in the market. Similar obligations were previously implemented in many other Board decisions (i.e., Türk Telekom⁷⁷ and Efes⁷⁸, etc.) and they do not infringe on the right to property. Accepting such an argument would mean the Board would be unable to intervene in dominant undertakings' practices. After all, dominant undertakings use the properties in their own possession and disposal to generate more revenue when infringing the Act. The Act no 4054 is not intended for a special circumstance involving the unfair use of a property owned by another party. Even the freedom of contract is one the Act no 4054 is empowered to intervene, within the limitations set out in the relevant regulations.

⁷⁷Decision dated 09.06.2016 and numbered 16-20/326-146

⁷⁸Decision dated 10.04.2008 and numbered 08-28/321-105

- Fundamental rights are under the protection of the Constitution in Turkish law and can be restricted by law under exceptional circumstances; the right to property is a fundamental law under constitutional protection and illegal intervention in that right is prohibited; freedom of contract and establishment of private businesses are also fundamental rights protected by the Constitution; these rights can only be restricted under the conditions set out in the Constitution itself:

(491) As clearly stated in Article 35 of the Constitution: “*The exercise of the right to property shall not contravene public interest.*” Thus, Google is obliged to respect any public interest concerns, even in the exercise of its own right to property. The right to property may not be a justification for the conduct which allegedly violated Article 6 of the Act no 4054. Besides, the file simply expects a redesign of the general search results page in a way that would not constitute a competition infringement and does not request a change in the ownership of the results page.

(492) On the other hand, when deemed necessary, the Board may authorize mergers and acquisitions by placing commitments on the parties in order to maintain effective competition in the market. This is to say, the lawmaker has granted the Board the right to intervene in transactions concerning a change of ownership, in light of any concentration the relevant transaction would cause in the market.

- The obligation the Report intends to introduce, which involves the allocation of less space to advertisements on the general search results page, violates Google’s right to property and freedom to contract; in accordance with Article 13 of the Constitution, fundamental rights and freedoms may only be restricted by law and in conformity with the reasons specified in the relevant articles of the Constitution, without infringing upon their essence:

(493) The competition law decisions, not only on the current file but also on certain types of exclusionary conduct, including the refusal to deal, are the exceptions to the freedom to contract⁷⁹. As a result, discussing the matter specifically with regard to Google would not lead to a legal outcome.

- The ownership of the Google page should be considered to fall under Article 13 of the Constitution and ECHR Protocol no. 1; both the European Court of Human Rights and the Constitutional Court deemed “*all types of economic assets*” under the scope of the constitutional right to property; the Constitutional Court pointed to this fact in various individual applications:

(494) As shown clearly by the relevant case-law of the Constitutional Court, conduct considered to be infringement on the right to property are extremely clear and limited. While the Constitutional Court (CC) does have infringement decisions regarding those actions of the administration that arbitrarily deprive the right-holder of the exercise of its right to property, these decisions as mentioned in the Plea do not prevent the administration from setting out a sanction or obligation concerning the exercise of the

⁷⁹ [Turgut TAN, Sözleşme Özgürlüğüne Kamunun Müdahalesi, p. 517](http://repository.bilkent.edu.tr/bitstream/handle/11693/52032/S%C3%B6zleşme%20Özgürlüğüne%20Kamunun%20Müdahalesi_p.517)
[http://repository.bilkent.edu.tr/bitstream/handle/11693/52032/S%C3%B6zleşme %C3%B6zgürlüğüne %C3%B6zleşme %C3%BCrl%C3%BCg%C3%BCne_kamunun_m%C3%BCdahalesi.pdf?sequence=1&isAllowed=y](http://repository.bilkent.edu.tr/bitstream/handle/11693/52032/S%C3%B6zleşme%20Özgürlüğüne%20Kamunun%20Müdahalesi_p.517) Accessed 27.02.2020

right to property (with the exception of arbitrary actions). Besides, the CC decision addressing “all types of economic assets” under the scope of the property law did not include an assessment specifically for competition law. The intention in the file is to intervene in the exercise of the right to property in a way that would distort competition, not in the right to property itself.

- The Constitutional Court’s case-law on the right to property do not limit the constitutional right to property with the property concept as defined under the Turkish Civil Code; the constitutional right to property also protects intangible assets; the CC decisions note that interventions in the right to property could only occur under Article 13 of the Constitution, in compliance with the conditions of legality, legitimacy and proportionality; in its *National Roaming* decision, the Board pointed out that free market economy was based on the freedom to own property and to enter into contracts; everyone has the right of disposition based on one’s right to property and thus everyone has the right to offer their products to anyone they want, as much as they want, at any price they choose:

(495) The points made in the argument run contrary to the fundamental goals of the regulatory authorities and competition law. Freedom of contract is not a boundless right. Besides, the abuse of this right is clearly prohibited not only by competition law, but also by the law of obligations. When considered in that context, the freedom of contract of an undertaking with near-monopoly market power may be restricted where it excludes its rivals or when it otherwise harms competition.

(496) Explanations Made under “Attachment 5: Google Search and AdWords Investigation - The Importance of Assessments concerning Inflation in Competition Analysis on Price”

- The Report claims that there is a “constant” and “steady” increase in the cost of text ads; Table 35 is offered in support of this claim, showing that the average cost per click on the Google’s general search results page seemingly increased from 0.(.....)TL to 0.(.....)TL between 2001 and 2019; the Turkish economy suffers from chronic high inflation rates, therefore disregarding the inflation in the Report is a mistake; cost-per-click tends to fall down when the calculation is adjusted to inflation in accordance with the Turkstat Producer Price Index; this Attachment is prepared to refer to Authority publications, other academic or professional studies and the Board decisions; the references in question accept the effect of inflation on the prices, and the Board developed case-law wherein the effect of the inflation is removed when analyzing prices,
- Turkey often had to fight inflation alongside its efforts towards growth and development since her establishment; Turkstat’s Consumer Price Index data as well as various academic studies clearly show the high-inflation rates; the effect of inflation should not be ignored in the price analysis,
- Concerning inflation assessment in price analyses, the Authority’s Manual on Economic Analyses, the Authority’s sector reports, many academic studies and Board Decisions take inflation rates into account; it is well-known that inflation data can distort competition law analyses on pricing data:

(497) As mentioned above, considering inflation as an automatic increase in costs

without checking on the costs themselves is not a reasonable method in economic or legal terms. Otherwise, would lead to legitimizing opportunism. Besides, an additional evaluation was conducted as well, based on the share of websites' text ad costs in their overall costs or marketing costs.

(498) **Arguments under “Attachment 6: Google Search and AdWords Investigation - Statements on the Benefits of Google AdWords in Turkish Media”**

- Turkish media sources on marketing have various statements concerning the benefits of Google advertisements to Turkish businesses; in general, these statements note that AdWords ads are high-return tools which allow reaching the correct audience, that they ensure high income with low costs and got results rapidly; as a specific example, (.....) increased its revenue from non-brand ad expenditures by (.....) per cent due to Google AdWords' targeting campaign:

(499) The file does not examine the effectiveness of text ads as compared to other online advertisement channels. Therefore, the fact that undertakings find text ads more effective than other channels is irrelevant and moreover, the views of the undertakings on the matter may be due to Google's power in the general search services market and the importance of finding a place on the first page. The file includes statements by websites noting that they preferred text ads to other non-search online advertisements as well as their concern that they could lose significant organic traffic due to these ads.

I.4.5. General Assessment

(500) The file mainly assesses the changes Google made to the search algorithms, the lack of information provided about these changes, the claim that the algorithm changes steered undertakings towards using the AdWords service more, the claim that Google negatively affected organic results by its practices concerning the AdWords service and increased AdWords dependency. The file examines whether Google used its text ads in high densities in an area whose advertisement nature has become more ambiguous, and which is crucially important for websites in order to provide advantages those undertakings who placed ads with Google in the content services market, where these websites are active, thereby leading to the foreclosure of the market to those undertakings who did not place ads with it.

(501) Allocation of the most valuable part of the Google search results page to an increasing frequency of ads turns into a paid-for Google dependency for those websites which can only operate thanks to the traffic they receive from Google, and it becomes harder for undertakings which do not allocate a budget for that, or which cannot afford it to stay in the market.

(502) First of all, it should be noted that Google's market power in the general search services necessarily restricts its freedom of movement in relation to Google's general search results page, which has become indispensable for websites, in line with the principle of imposing special responsibilities on dominant undertakings. In other words, the application of competition law rules has become critically important and very sensitive in this particular area, and thus it is no longer a space where Google can freely list and display its own services and products. Accordingly, its actions to foreclose the market to undertakings that try to compete with those websites which act to Google's benefit requires that competition law be applied rigorously for these

services which are not yet regulated in Turkey. It should be particularly emphasized that the focus of the file is not that Google is generating revenue from advertisements, but the fact that Google, in order to generate revenue, is causing anti-competitive effects in the content services market which makes use of the general search services, and which is required for the provision of this service.

(503) In light of the examinations, observations and analyses conducted, it has become clear that Google made a number of small- or large-scale changes in its search algorithms, some of which are to its own benefit. It has been established that these changes may have had an impact on the rankings of websites and thus, indirectly, on the traffic they receive from Google. As a natural outcome of Google users' habits, a change in the rankings have a positive effect on the traffic of some websites, while it makes a negative impact on the traffic of those websites which went down in the rankings. On the other hand, the changes made to Google's algorithms are generally perceived by websites as innovations that improve quality and thereby user experience. In that sense, Google's improvements to the algorithms are seen as a requirement of the digital age where innovations are coming very rapidly. Accordingly, instead of focusing solely on Google's changing its algorithms to that end, the file focused on the impact of these changes on the traffic websites received especially from the organic channel and examined whether the websites' access to this critical channel was made more difficult.

(504) The file also looked at the views of both Google and third parties on to what extent Google's algorithm changes led to uncertainty, their methods for overcoming that, and whether Google took any action to eliminate this uncertainty. It is clear that the effects of Google's algorithm changes caused a level of uncertainty in terms of the traffic websites received from Google. In response to that uncertainty, some websites chose to improve their sites to comply with the newly established quality criteria, while others chose to take out more ads. Thus, it is believed that the situation has some aspects that could affect the sustainability of the organic traffic websites receive from Google, and their dependency on the advertisement channels. At this juncture, the file looked at whether Google provided any information on the algorithm changes it made or would make in order to reduce the uncertainty, and if not, its justification for doing so. According to the information in the file, under certain circumstances Google does provides information on the algorithm changes via various channels in a limited way or in further detail. Both Google and third part websites have stated that providing information about certain updates could lead some websites manipulating the results by presenting themselves as more relevant than they actually are with respect to the criteria highlighted by the new update. This could negatively affect the rankings, to the detriment of both users and those websites which were determined to be of "higher quality" by Google's algorithms. In line with this reasoning, it was concluded that Google was justified to refrain from providing information on such updates which could lead to manipulation.

(505) However, another claim examined under the file states that Google allowed websites to place ads with brands owned by other websites, pushing all websites to take out ads with their own brands and thus increased ad dependency. It was found that this practice by Google has harmed the majority of the websites who were asked to provide information to the Authority. The relevant practice can be addressed under the Industrial Property Law. When examined under the Act no 4054, it is concluded

that allowing undertakings to place ads with other brands could result in the allocation of a larger budget for ads and the creation of a situation to the disadvantage of organic results. However, reliably restricting the parties that can place ads with brand names becomes harder due to various reasons including the fact that different websites may exist under the same domain name (with .net, .com and .org extensions), that brand and product names may be the same (for example, flower.com), and that one brand may be sold through multiple channels or retailers. Besides, as detailed above, placing ads with other brands may sometimes increase competition. Thus, it was concluded that a violation could not be established for the claim in question.

(506) Lastly, the file examined the claim that websites placing text ads on Google affected their ranking in the organic results. A violation was not established about this claim, since the tests and analyses conducted by the Authority could not prove the claim to a sufficient level.

(507) However, it was ruled that Google complicated competition in the content services market through the following practices examined under the framework of the file:

- By displaying increasingly frequent text ads on the general search results page, Google complicated competition in the content services market, to the detriment of those websites which did not place ads on Google,
- The publication format of text ads increasingly led to ambiguity with regard to the advertisement nature of the relevant results.

(508) At this point, the (potential) effects of Google's relevant practices in the market must be examined in order to determine if they led to an infringement of the Act no 4054. In fact, the Guidelines state that the assessment concerning the exclusionary conduct, in general, is based on examining whether the dominant undertaking's conduct led to actual or potential anti-competitive market foreclosure.

(509) According to the Guidelines, anti-competitive foreclosure is the obstruction or prevention of access to sources of supply or markets for actual or potential competitors as a result of the conduct of the dominant undertaking, to the detriment of the consumers. Harm to consumers may occur in the form of increased prices, decreased product quality and level of innovation, and reduced variety of goods and services. The Guidelines lists the points that should be taken into consideration when assessing whether anti-competitive market foreclosure occurred as follows:

- The position of the dominant undertaking
- The conditions in the relevant market
- The position of the dominant undertaking's competitors
- The position of the customers or suppliers
- The scope and duration of the conduct examined
- Possible evidence of actual foreclosure
- Direct or indirect evidence of exclusionary strategy

(510) The first three points above were addressed in the section on establishing dominant position. Thus, as mentioned in the relevant section, Google holds dominant position in the general search market and there are significant indirect network effects in the search services market, which has the characteristics of a multi-sided platform. The same is true for many websites Google includes in the general search results page. In fact, Google algorithms themselves support this form of network effect. This

is because a website receiving more traffic is seen as a positive signal by the Google algorithms to rank the relevant website higher, which ultimately results in the higher-ranking websites getting more traffic. For internet platforms where direct and indirect network effects are significant, traffic from Google is critically important, and it becomes increasingly harder for websites who do not receive traffic to acquire it. On the other hand, Google offers specialized search services for some specific sectors. A significant portion of the traffic received by websites operating in these sectors comes from Google, either via organic results or via Google text ads. Consequently, they are in a vertical relationship with Google on the one side, while they try to compete with Google in the horizontally overlapping specialized search services space on the other. Therefore, Google has a significant advantage before its rivals, stemming from its operations in both the vertical and the horizontal relevant markets. In addition, the fact that Google ads are displayed in increasing density at the most valuable part of the search results page makes it harder for undertakings who are not included in that area to receive traffic. At the same time, websites which can actually find a place in the area allocated to text ads whose advertisement nature is gradually becoming more obscure, acquire significant advantages compared to the websites which are not included there.

(511) The potential and actual effects of Google's text ads service will be examined below, in accordance with the data and information collected within the scope of the file, and both on the micro-scale of websites and on the macro-scale of the whole market.

Gradual Increase in the Number of Advertisements

(512) The traffic of websites who were sent information requests and who provided usable information was examined under the file, and it was found that the total traffic they received from Google maintained its significance in their traffic sources through time, but this traffic switched from the free channel to the paid channel. A look at the information acquired from Google shows that in the period under examination (2011-2019) Google's AdWords traffic increased by more than (.....) times, and its AdWords revenues by around (.....) times, while organic traffic volume was about (.....) despite increasing internet use. Google has increased both its maximum ad limits and the number of average ads it displays within the relevant period.

(513) Google's written Plea claims that AdWords is a legitimate tool for Google to finance its free search services and that Google was able to provide free search services to Turkish users in this way. It must be underlined that it does not seem possible to consider the services provided organically by Google to consumers and websites as "free". Users pay the price of the services Google provides them without asking for a payment with their attention, personal data and their exposition to the advertisements.⁸⁰ In terms of websites, in return for the organic results, these websites also provide Google with their content, which is indispensable for Google, with usage and Google traffic data for the website, and with the ability to access the data of the website users. In light of these clarifications, although it is understandable for Google to provide its currently paid-for services to websites in return for a fee via various advertisement models, Google must do this in a format and on a scale that would not

⁸⁰ Jones A, et al., 2019, "EU Competition Law [Text, Cases, and Materials](#)", Oxford University Press, p. 327.

distort the “competition for eyeballs”,⁸¹ i.e., “competition to draw the attention of the consumer,” that exists for the most valuable portion of the search results.

(514) In addition, Google was requested to provide the traffic volumes for the top twenty sites which bring the highest traffic on the basis of text ads and organic traffic. Following is the comparison of text ad traffic for the websites in question, using the figures obtained by dividing the organic traffic by 100 in order to bring it to the same scale as text ad traffic.

Chart 51: AdWords and Organic Traffic Data for the 20 Websites Which Brought the Highest Traffic

(..... TRADE SECRET.....)

Source: Google

(515) The graph above shows that an increase of around (.....)% was seen in the traffic of the 20 sites that got the largest share in the AdWords traffic (going up by (.....) times), while organic traffic in the top 20 sites which got the highest organic traffic increased by (.....)%. As explained in detail in the previous chapters, concerning the share of organic traffic in the total traffic of those undertakings with mid- or large-scale traffic in particular, one of the undertaking that received an information request stated, as an example, that (.....) clicks were received when AdWords ads are placed for the same query in comparison to (.....) clicks when only organic results are displayed. The significant difference between these two numbers indicates that, in addition to its current actual effects, the display of text ads at the top of the search results and their increasing number in that position is likely to lead to a more critical impact to the detriment of organic results.

(516) In light of the assessments above, it was concluded that the allocation of 60% to 100% of Google’s first page, stated to have an internet user penetration of 90% in Turkey⁸², to Google’s own advertisement service had a negative effect on the click-through rates of organic results, which seems to be in competition with the former area in light of the user preferences. As will be examined in detail below, this in turn results in increasing advertisement budgets for those undertakings who use the AdWords service more. In addition, there is no traffic-increasing effect of AdWords for those undertakings which lack the financial strength to allocate that budget, or the technical capacity required for AdWords.

(517) In relation to these developments in the traffic trends, it was investigated whether websites were able to use other advertisement opportunities that could serve as an alternative to text ads. However, these investigations concluded that text ads were not substitutable with either other Google ads or with other types of non-search-

⁸¹ Ibid., p. 327.

⁸² SimilarWeb, October 2018

based ads. Even though there has been a switch to Shopping Unit ads, this is thought to be due to the fact that, when shown at the top of the page, Shopping Unit is positioned before text ads and takes a large space on the page. This shows that websites lacked the opportunity to efficiently acquire from another source the amount of traffic they were able or unable to receive from text ads.

Click-Through Rates

(518) The decreasing trend in the traffic websites receive from organic traffic is shown above. Google’s Plea in response states that websites saw an increase in the traffic they got from Google throughout the time and that the traffic in question was not negatively affected by text ads. Below, we will use different parameters⁸³ to conduct a multi-sided examination of the change in the click-through rates of the text ads Google generally places at the top and bottom of the general search results page, as well as those of the organic results through time.

(519) The first table below shows the average click-through rates. The only decreasing rate among those submitted in the table belongs to organic clicks, with all of Google’s ad results, including text ads, receiving an increasingly higher share of the click-throughs. When focused on organic results, it is observed that the rate of (.....) % in 2011 dropped to (.....) % in 2019 (January-July period).

Table 27: Average Click-through Rates (%)⁸⁴

	Text ads on the Google general results page *	Organic results	Product ads in Google Shopping Unit**	Local ads on the Google general results page***	Hotel ads on the Google general results page*
2011		(.....)			
2012		(.....)			
2013		(.....)	(.....)		
2014		(.....)	(.....)		
2015		(.....)	(.....)		
2016	(.....)	(.....)	(.....)	(.....)	(.....)
2017	(.....)	(.....)	(.....)	(.....)	(.....)
2018	(.....)	(.....)	(.....)	(.....)	(.....)
2019	(.....)	(.....)	(.....)	(.....)	(.....)

⁸³ Under the file, a portion of the data requested from Google was provided with regard to a limited period, only covering the queries submitted on the second Wednesday of each month, due to the “complexities in retrieving the relevant data from Google’s systems.”

⁸⁴ Google made the following explanations concerning the relevant data:
 ** Click-through rates (CTR) for the product ads in Google Shopping Unit in 2013 are based on the data from November 2013 (when the Shopping Unit was launched in the Turkish market) to December. *** Click-through rate for local ads in 2016 are based on the data from October 2016 (when the relevant product was launched in the market) to December.

Source: Google

(520) In addition, the file endeavored to track the change in the click-through rates of organic results where at least one text ad was displayed. However, Google could only provide data for a limited period of time. Even focusing on that period, it is found that the clickthrough rates were around (.....)% in the second half of 2018 and around (.....)% by the end of the second half of 2019. Taking into account these rates together with the general rates given in the table above, it becomes clear that there is a significant reduction in the click-through rates of organic results when at least one ad is displayed.

Table 28: Average Click-Through Rates for Queries Displaying at Least One Text Ad (%)

Date	Organic results	Product ads in Google Shopping Unit	Local ads on the Google general results page
August 8, 2018, Wednesday	(.....)	(.....)	(.....)
September 12, 2018, Wednesday	(.....)	(.....)	(.....)
October 10, 2018, Wednesday	(.....)	(.....)	(.....)
November 14, 2018, Wednesday	(.....)	(.....)	(.....)
December 12, 2018, Wednesday	(.....)	(.....)	(.....)
January 9, 2019, Wednesday	(.....)	(.....)	(.....)
February 13, 2019, Wednesday	(.....)	(.....)	(.....)
March 13, 2019, Wednesday	(.....)	(.....)	(.....)
April 10, 2019, Wednesday	(.....)	(.....)	(.....)
May 8, 2019, Wednesday	(.....)	(.....)	(.....)
June 12, 2019, Wednesday	(.....)	(.....)	(.....)
July 10, 2019, Wednesday	(.....)	(.....)	(.....)
Source: Google			

(521) On the other hand, it is a well-known fact in the whole sector that not every query submitted to Google has the same value. Some queries are more frequently submitted by the users and competition between the websites for those queries gets more intense. In that context, Google was asked to provide the click-through rates for the most searched 100 queries. As can be seen in the table below, according to the data provided in response, it is clear that the organic result click-through rates have dropped more, while click-through rates of text ads are quite high relative to normal queries.

This is thought to be due to the display of higher number of ads for the types of queries concerned. Thus, the relevant analysis shows that Google’s argument that ads were displayed for only (.....)% of all search queries was misleading.

Table 29: Average Click-through Rates for Queries That Display Both the Shopping Unit and at Least One Text Ad Among the 100 Most Searched Queries

Date	Product ads in Google Shopping Unit	Text ads on the Google general results page	Organic results
August 8, 2018, Wednesday	(.....)	(.....)	(.....)
September 12, 2018, Wednesday	(.....)	(.....)	(.....)
October 10, 2018, Wednesday	(.....)	(.....)	(.....)
November 14, 2018, Wednesday	(.....)	(.....)	(.....)
December 12, 2018, Wednesday	(.....)	(.....)	(.....)
January 9, 2019, Wednesday	(.....)	(.....)	(.....)
February 13, 2019, Wednesday	(.....)	(.....)	(.....)
March 13, 2019, Wednesday	(.....)	(.....)	(.....)
April 10, 2019, Wednesday	(.....)	(.....)	(.....)
May 8, 2019, Wednesday	(.....)	(.....)	(.....)
June 12, 2019, Wednesday	(.....)	(.....)	(.....)
July 10, 2019, Wednesday	(.....)	(.....)	(.....)
Source: Google			

(522) In order to test the “randomness” of the data, Google was requested to provide the data they previously submitted concerning the second Wednesday of each month for the first Tuesday of each month as well. Following is a version of the table above for the first Tuesday of each month. With some exceptions, there are no significant differences between the data, but the following table shows that the click-through rates of organic results for the relevant queries came close to (.....)% in October 2019. This is quite concerning for organic results. In addition, Google’s highlighting its own ads for queries with high competition suggests that the conduct examined under the file has a selective nature.

Table 30: Average Click-through Rates for the Most-Searched Top 100 Queries Which Display Both the Shopping Unit and at Least One Text Ad (%)

Date	Product ads in Google Shopping Unit	Text ads on the Google general results page	Organic results
November 6, 2018, Tuesday	(.....)	(.....)	(.....)
December 4, 2018, Tuesday	(.....)	(.....)	(.....)
January 1, 2019, Tuesday	(.....)	(.....)	(.....)
February 5, 2019, Tuesday	(.....)	(.....)	(.....)
March 5, 2019, Tuesday	(.....)	(.....)	(.....)
April 2, 2019, Tuesday	(.....)	(.....)	(.....)
May 7, 2019, Tuesday	(.....)	(.....)	(.....)
June 4, 2019, Tuesday	(.....)	(.....)	(.....)
July 2, 2019, Tuesday	(.....)	(.....)	(.....)
August 6, 2019, Tuesday	(.....)	(.....)	(.....)
September 3, 2019, Tuesday	(.....)	(.....)	(.....)
October 1, 2019, Tuesday	(.....)	(.....)	(.....)
Source: Google			

(523) The following tables show how text ad and organic result click-through rates changed for each slot in the general search results, depending on whether ads were shown or not.

Table 31: Average Click-Through Rates for the Organic Results on the First Page of Google Search Results, for Those Queries with No Ads on the First Page

Date	Slot 1	Slot 2	Slot 3	Slot 4	Slot 5	Slot 6	Slot 7	Slot 8	Slot 9	Slot 10	Slot 11	Total
November 14, 2018, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
December 12, 2018, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
January 9, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
February 13, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
March 13, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
April 10, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
May 8, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
June 12, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
July 10, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
August 14, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
September 11, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
October 9, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Source: Google												

Table 32: Average Click-through Rates for Organic Results on the First Page of Google General Search Results for Queries Displaying at Least One Text Ad on the First Page

Date	Slot 1	Slot 2	Slot 3	Slot 4	Slot 5	Slot 6	Slot 7	Slot 8	Slot 9	Slot 10	Slot 11	Total
November 14, 2018, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
December 12, 2018, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
January 9, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
February 13, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
March 13, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
April 10, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
May 8, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
June 12, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
July 10, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
August 14, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
September 11, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
October 9, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Source: Google												

Table 33: Average Click-through Rates for Text Ads on the First Page of Google General Search Results for Queries Displaying at Least One Text Ad on the First Page

Date	Top				Bottom			Top Total	Bottom Total
	Slot 1	Slot 2	Slot 3	Slot 4	Slot 1	Slot 2	Slot 3		
November 14, 2018, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
December 12, 2018, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
January 9, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
February 13, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
March 13, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
April 10, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
May 8, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
June 12, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
July 10, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
August 14, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
September 11, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
October 9, 2019, Wednesday	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Source: Google									

(524) First of all, the tables above show that click-through rates on the search results page drop significantly as one goes down the rankings. As made clear by the first table, on a search results page with no ads, the click-through rate for the first ranking result was (.....)%, with the percentage falling down to (.....)% and (.....)% respectively for the second and third ranking results, according to the October 2019 data. Fifth and lower ranking results, on the other hand, get a click-through rate of (.....)%. Secondly, a similar case is observed for text ads Google ranked according to a different algorithm. For results that display at least one text ad on the first page, the first text ad gets a click-through rate of (.....)%, with second and third ads getting (.....)% and (.....)%, respectively. This drop down in the click-through rates reinforces the observation that there is a close relationship between click-through rates and ranking, in light of the fact that the main criteria for the consumer in ads are not “quality” or “relevancy”. In fact, there is a significant difference between the click-through rates for the product ads located at the top and the bottom of the page.

(525) Third, organic results click-through rates show a significant drop for those queries that display at least one text ad on the first page, in comparison to the queries which show none. Again, in accordance with October 2019 data, when there are no ads displayed on the first page, the first ranking organic result gets a click-through rate of (.....)%, when the same organic results get (.....)% click-through on a results page that displays at least one ad.

(526) Fourth, while there is no downward trend in the click-through rates of the top 11 organic results for which no ads were displayed on the first page, organic result click-through rates for search results displaying at least one text ad are dropping down. The main reason for this is thought to be the increasing number of text and product ads and the directly related click-through rates for these ads. This is because Google stated that even the first ad in the Shopping Unit included with those results that display at least one text ad gets a click-through rate of around (.....)% on its own.⁸⁵

(527) Fifth, a look at the clicks received by Google’s text ads which were displayed at a maximum of four pieces on the top and three pieces at the bottom of each general search results page reveals that the top four ad results had generally increasing click-through rates, reaching around (.....)% by October 2019. Ads at the bottom of the page, on the other hand, receive around (.....)% of the clicks in total when there are three of them. In that case, if Google displays the maximum number of ads, it becomes clear that Google text ads receive an average of more than (.....)% of the traffic of the first page of the Google general search services, which handles more than (.....)% of the total traffic of the whole service and which forms the primary source of traffic for websites.

(528) In its written Plea, Google noted that displaying ads on the top and at the sides was the “*normal business practice*,” and that it was no different than the funding model of traditional channels that wish to provide content to users. The points that need to be underlined here is the fact that in other ad channels, the main goal of the user is to

⁸⁵ Google noted that for product ads displayed at the top of the page, their positions was limited to the top (.....) slots and separate average click-through information was provided for the (.....) slots concerned. For October 2019, the click-through rates in question for (.....) pieces of ads were a total of (.....)%, with the total of click-through rates for the ads in the top 10 slots reaching (.....)%.

scan the information included in an already-selected source of content instead of accessing the most relevant information, while a user utilizing Google’s general search service is actually looking for the most relevant information. For instance, a user visiting an online news site may, while basically trying to access news content, encounter ads which are not directly or indirectly relevant to the content he is looking for on the website in question. The goal is for the advertisement to draw the attention of such a user, and to provide information to the user on the brand, campaign or the product. Even if the ads in question may draw the attention of the user, they do not regard this as a substitute for accessing the news content. However, in Google search results users enter a query and expect Google to list those results which are most closely relevant to that query. The analyses performed above show that the text ads displayed in this area do substitute organic traffic and that they negatively affect traffic to that area. Thus, providing text ads as part of Google’s fundamental search function leads to a situation and outcome that is outside of “normal business practices.”

The Increase in Websites’ Ad Costs

(529) The file examines the effect of the ads Google displays at high density in the most valuable portion of the general search results page. In that context, another issue raised by the sector players is the fact that they are forced to allocate increasingly large budgets to Google in order to gain traffic.

(530) The table below shows the annual change in the average cost-per-click for Google’s various ad types.

Table 34: Average Cost-per-click (TRY) ⁸⁶

Date	Text ads on the Google general results page	Product ads in Google Shopping Unit*	Local ads on the Google general results page**	Hotel ads on the Google general results page***
2011	(.....)			
2012	(.....)			
2013	(.....)	(.....)		
2014	(.....)	(.....)		
2015	(.....)	(.....)		(.....)
2016	(.....)	(.....)	(.....)	(.....)
2017	(.....)	(.....)	(.....)	(.....)
2018	(.....)	(.....)	(.....)	(.....)
2019	(.....)	(.....)	(.....)	(.....)
Source: Google				

(531) The table suggests that the cost-per-click for text ads increased constantly and

⁸⁶ Google made the following explanations on the data presented in the table:
 * Note: Cost-per-click (CPC) amounts for the product ads in Google Shopping Unit in 2013 are based on the data from November 2013 (when the Shopping Unit was launched in the Turkish market) to December.
 ** Note: Cost-per-click amounts for local ads in 2016 are based on the data from October 2016 (when the relevant product was launched in the market) to December.
 *** Note: Cost-per-click amount for hotels ads in 2015 are based on the data from February 2015 (when the relevant product was launched in the market) to December.

steadily, and in 2019 ((.....)) reached a value that is about two times higher than the value in 2011 ((.....)). The table also shows that ad types other than local search ads could not yet attain a similar upwards trend.

(532) Information was requested from websites under the framework of the file on the share of the text ad fees they paid to Google in their marketing costs and total costs. The following table shows the share of the relevant cost item within the total market costs and total costs of websites (with the exception of D&R and Idefix):

Table 35: Share of AdWords Costs in the Total Marketing Costs and Total Costs of Websites (%)

Website	Type of Cost Ratio	2011	2012	2013	2014	2015	2016	2017	2018	2019 ⁸⁷
Çiçekmarket	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Çiçeksepeti	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Hepsiburada	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Bilyoner	AdWords Cost / Total Market Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
D&R	Google AdWords Cost / Performance Market Cost						(.....)	(.....)	(.....)	(.....)
	AdWords Cost / Total Dig. Mar. Cost							(.....)	(.....)	(.....)
Idefix	Google AdWords Cost / Performance Market Cost						(.....)	(.....)	(.....)	(.....)
	AdWords Cost / Total Dig. Mar. Cost							(.....)	(.....)	(.....)
Defacto	AdWords Cost / Total Market Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Enuygun	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Etstur	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Gittigidiyor	AdWords Cost /			(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

⁸⁷ Includes the January-July period.

	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Zingat	AdWords Cost / Total Market Cost							(.....)	(.....)	(.....)
	AdWords Cost/Total Cost							(.....)	(.....)	(.....)
Boyner	AdWords Cost / Total Market Cost								(.....)	(.....)
	AdWords Cost/Total Cost							(.....)	(.....)	(.....)
Puhutv	AdWords Cost / Total Market Cost							(.....)	(.....)	(.....)
	AdWords Cost/Total Cost							(.....)	(.....)	(.....)
Vivense	AdWords Cost / Total Market Cost			(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost			(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Amazon	AdWords Cost / Total Market Cost								(.....)	(.....)
	AdWords Cost/Total Cost								(.....)	(.....)
Biletbayisi	AdWords Cost / Total Market Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Facebook	AdWords Cost / Total Market Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Arabam.com	AdWords Cost / Total Market Cost							(.....)	(.....)	(.....)
	AdWords Cost/Total Cost							(.....)	(.....)	(.....)
Cimri.com	AdWords Cost / Total Market Cost			(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost			(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Chemorbis	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Emlakjet	AdWords Cost / Total Market Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost				(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Hangikredi	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost			(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Kariyernet	AdWords Cost / Total Market Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
Neredekal	AdWords Cost / Total Market Cost					(.....)	(.....)	(.....)	(.....)	(.....)
	AdWords Cost/Total Cost					(.....)	(.....)	(.....)	(.....)	(.....)

Sigortam.net	AdWords Cost /		(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
	Total Market Cost										
	AdWords Cost/Total Cost		(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	
Otokoç	AdWords Cost /	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	Total Market Cost										
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Sahibinden	AdWords Cost /	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	Total Market Cost										
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
Ucuzabilet	AdWords Cost /	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)
	Total Market Cost										
	AdWords Cost/Total Cost	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)

Source: Information and Documents acquired from the undertakings

(533) The first conclusion that can be drawn from the table above is that the share of text ad expenditures within the total marketing costs of websites vary from undertaking to undertaking and exceeds (.....)% for (.....) out of the 42 undertakings included in the table for the years 2017 and 2018. In addition, this ratio went above (.....)% for 21 websites in the relevant period of time (at least one year). Secondly, the share of text ads within the costs of some websites ((.....)) presented a general upwards trend, while for other websites this ratio dropped down or first went up and then down ((.....)). It is believed that the decrease in question stemmed from the fact that they spent more in Google's other advertisement channels. Thirdly, the ratios given in the table above show that websites engaged in marketing activities in other channels. At this point, as previously explained in detail, it should be noted that out of the 32 websites who provided information, (.....)% received more than 60% of their traffic in the first eight months of 2019 from Google-owned channels. In other words, even though websites invest in other advertisement channels, they still get the majority of their traffic from Google. This supports the observation that it would be quite hard to substitute Google's general search services with another source.

(534) In light of the data above, it has been concluded that the increasing frequency of Google's text ads put pressure on the costs of websites, particularly in light of the increasing unit costs and the undertakings' budget ratios. It has been observed that websites' dependency on the paid traffic channel increased in order to attract more traffic, and they allocated significant resources to getting traffic from Google.

Analysis of Consumer Preferences

(535) Google emphasizes that the main incentive is the consumer preference; this approach may mean that users prefer the ads covering such a large place that organic results cannot be displayed in the first screen. This approach is not accepted as a reasonable explanation. In addition, it is not possible to interpret that consumers click that area because they prefer that area consciously and obtain the benefit they expect.

(536) In the report concerning digital platforms issued by George Stigler Center for the Study of the Economy and the State, The University of Chicago Booth School of Business⁸⁸, it is stated that "The number of clicks on ads may not correlate with greater

⁸⁸ George J. Stigler Center for the Study of the Economy and the State The University of Chicago

welfare if higher volume of clicks is obtained by exploiting lack of self-control and addictive behaviors. “Similarly, the report suggests that advertisements are different from a market for any goods, it is not possible to say that a more valuable advertisement will lead to an increased welfare, taking into account the relationship between advertisement and consumption. Therefore, a conclusion that more clicks on Google text ads mean that consumer welfare is increased may be wrong if it is not analyzed from behavioral economics perspective, whose importance is emphasized especially in the report.

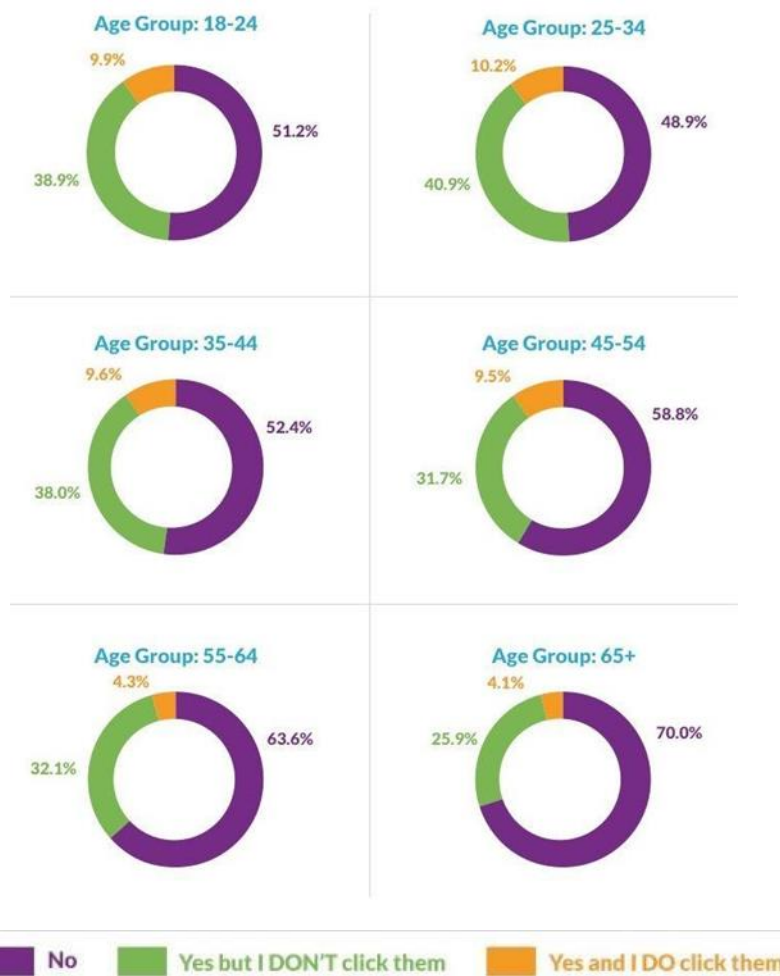
(537) On the other hand, beside Google, third parties made studies about consumer perception regarding ads displayed on Google. One of the studies shows that nearly 55% of users do not know which Google results are ads or organic results⁸⁹. According to the same study 8.4% of the users know that the area is advertisement and click the area, while 36.9% prefer not to click, as they know that it is an advertisement. According to a study made in September 2018, this rate is 59.7%⁹⁰. The rates vary seriously according to age. As the figure below shows, especially the rate of users over the age of 55 who do not perceive Google ads as ads is very high:

Booth School of Business, Committee for the Study of Digital Platforms Market Structure and Antitrust Subcommittee Report, 01.07.2019, p. 45, <https://research.chicagobooth.edu/-/media/research/stigler/pdfs/market-structure---report-as-of-24-june-2019.pdf?la=en&hash=872E4CA6B09BAC699EEF7D259BD69AEA717DDCF9>, Accessed 16.07.2019.

⁸⁹ 55% of users don't recognise PPC ads in Google search results", <https://www.clickz.com/55-of-users-dont-recognise-ppc-ads-in-google-search-results/104838/> Accessed 25.11.2019

⁹⁰ Two-thirds of people don't know difference between Google paid and organic search results", <https://www.marketingtechnews.net/news/2018/sep/06/two-thirds-people-dont-know-difference-between-google-paid-and-organic-search-results/> Accessed 25.11.2019

Figure 25: The perception of Google ads according to age groups



Source: <https://www.clickz.com/55-of-users-dont-recognise-ppc-ads-in-google-search-results/104838/> Accessed 25.11.2019

(538) The report “Adults’ media use and attitudes”, which was issued by Ofcom in 2019, highlights that users misperceive ads and this perception varies depending on age groups⁹¹. According to Ofcom data, four out of five internet users say that they feel confident that they can recognize online advertising. However, only half of search engine users correctly identify ads and those rates do not change compared to those of 2015 and 2017. The confidence rate varies according to income groups. Moreover, the said rates are related to the users in the United Kingdom and it is estimated that those rates would be lower for Turkey.

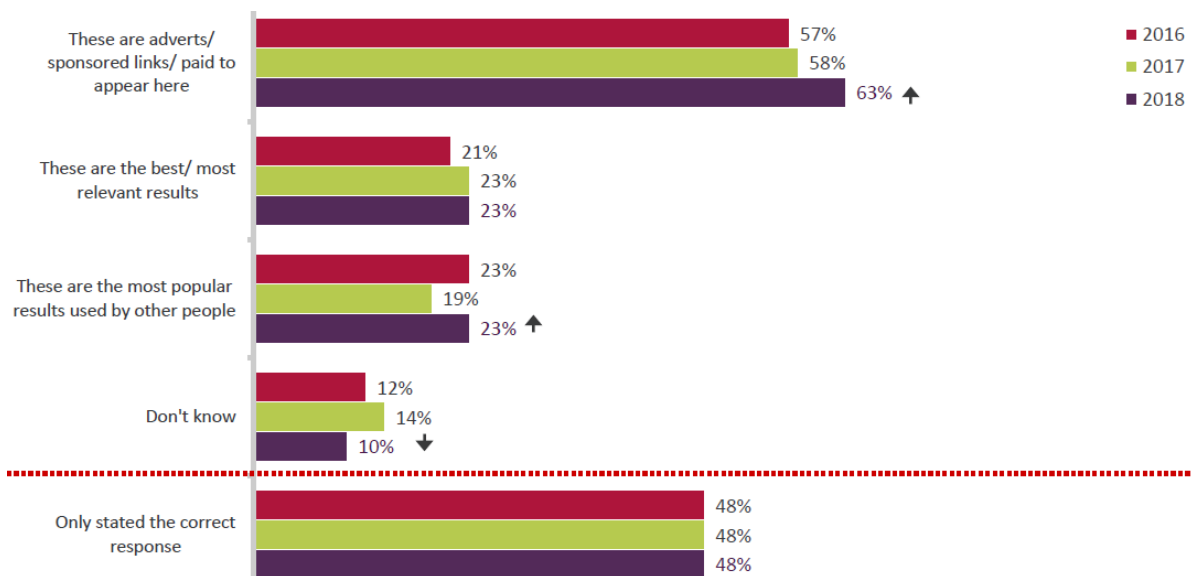
(539) In addition the report includes findings related to the understanding of paid results returned by Google. The figure below shows the result of the said study. Accordingly, only 48% of the users gave the correct response⁹². The report states that it is possible to choose more than one option. It is seen that even some of the users

⁹¹ https://www.ofcom.org.uk/data/assets/pdf_file/0021/149124/adults-media-use-and-attitudes-report.pdf, p. 17. Accessed 25.11.2019

⁹² According to the details of the study, the reactions to the said question differ significantly on the basis of established users and new users (49% - 39%) and established users give correct answers at a higher rate.

who recognize that such results are paid or adverts think that they are “the best”, “most relevant” or “most popular”

Figure 26: Findings related to the understanding of paid results returned by Google.



Source: Ofcom Adult Media Literacy Tracker 2018, [https://www.ofcom.org.uk/ data/assets/pdf file/0031/149872/Adults-media-use-and-attitudes-report-2019-chart-pack.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0031/149872/Adults-media-use-and-attitudes-report-2019-chart-pack.pdf) Accessed 25.11.2019

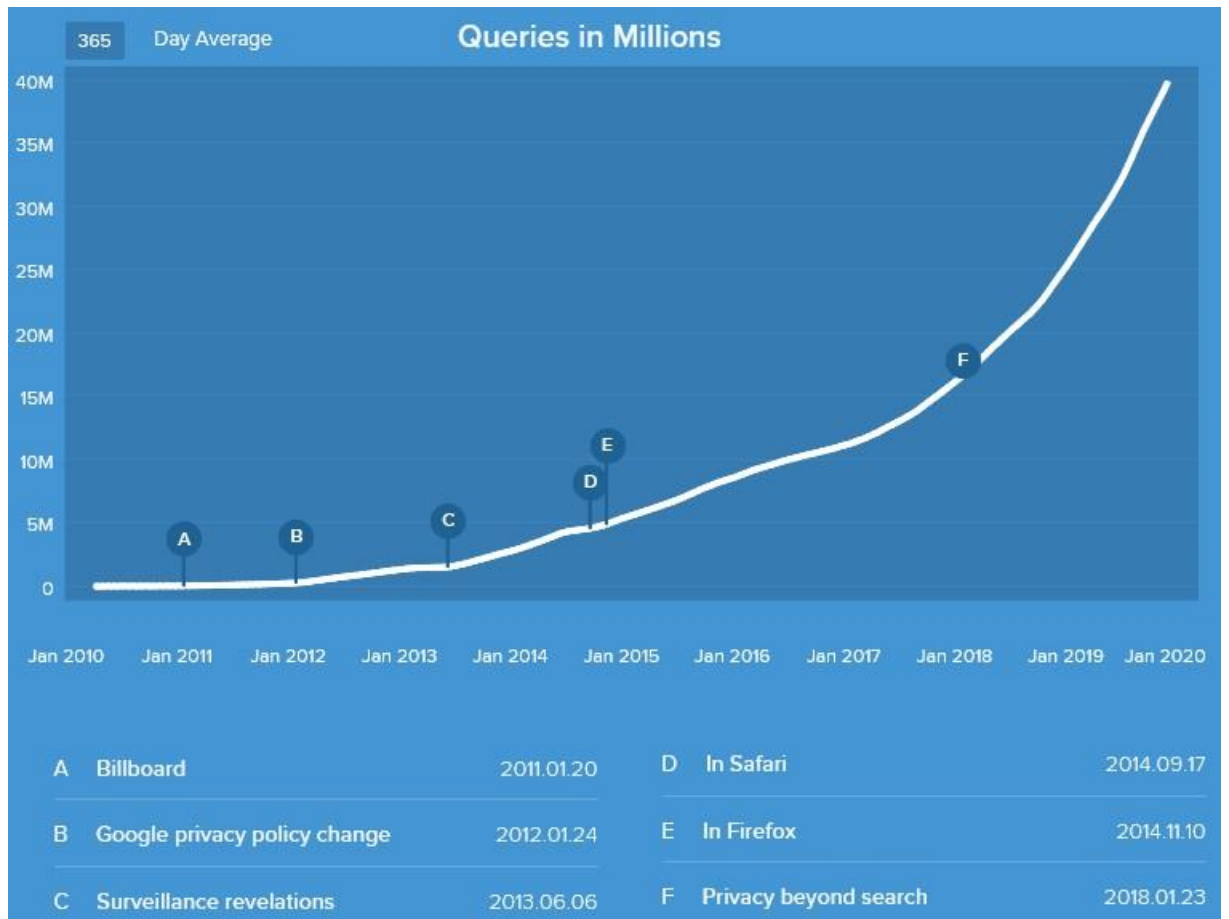
(540) Moreover “Adults’ media use and attitudes” issued by Ofcom in 2018 includes the following findings: 23% of internet users said that they do not mind online ads, 35% said that they do not mind seeing them as long as they are relevant and 40% said that they dislike all online ads.⁹³ When compared to the rates in 2016, the rate of users who do not mind online ads decreased (from 32% to 23%); on the other hand, the rate of users who dislike all online ads increased (from 34% to 40%). Therefore, taken into account the reaction of users who are becoming more conscious about being subject to more ads, it is not possible to confirm Google’s claim that it shapes its extending ad services according to consumer preference.

(541) Thus, Google’s basic operation model regarding text ads in not to provide the best or the most relevant services to the consumer but to obtain the highest revenues.

(542) On the other hand, new developments in the digital world can enlighten consumers’ advertisement preferences. DuckDuckGo works with a search engine model that does not track user information or provide personalized ads. The figure below shows the development of the number of queries per day according to 365 days average:

Figure 27: The number of queries per day according to the average of 365 days

⁹³ 93“Adults’ Media Use and Attitudes Report” [https://www.ofcom.org.uk/ data/assets/pdf_file/0011/113222/Adults-Media-Use-and-Attitudes- Report-2018.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0011/113222/Adults-Media-Use-and-Attitudes-Report-2018.pdf), p. 164 Accessed 25.11.2019

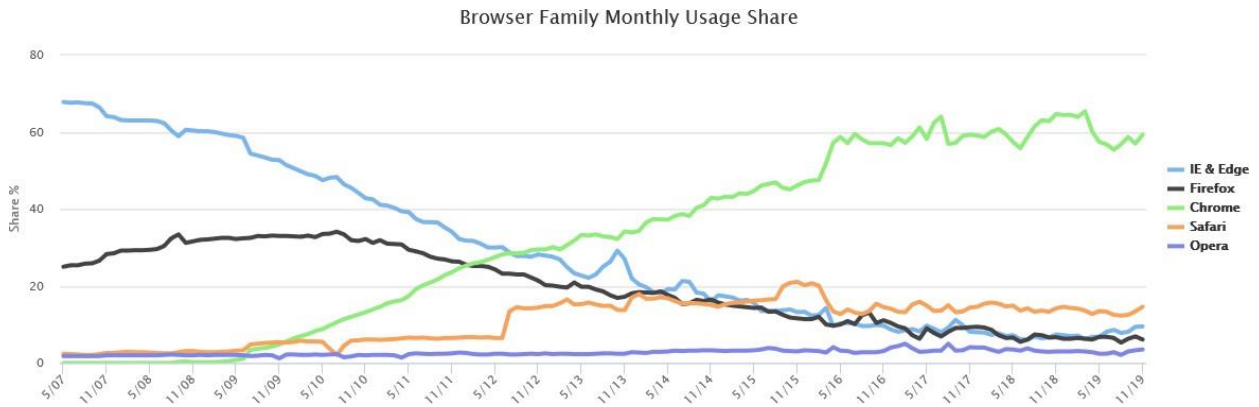


Source: <https://duckduckgo.com/traffic> Accessed 25.11.2019

(543) The figure shows that the traffic of the search engine is gradually increasing. Currently, its total daily traffic amount is more than 51 million on the basis of query.

(544) Another example is Opera, which entered to the market as a web browser. Opera is trying to enter the market with its speed and preventing ads with one click. The figure below shows that players such as Firefox and Internet Explorer are losing market share rapidly and Opera is attaining a place in the market. At present, it has a market share of nearly 4%.

Figure 28: Market Data regarding Web Browsers



Source: <https://www.w3counter.com/trends> Accessed 25.11.2019

(545) The samples above show that consumers have a tendency to see less ads and provide less personal data.

(546) **Document 20/213-217** is important showing that Text ads may differ seriously in users' queries. The said document includes the presentation that might be the answer to customers' questions about the effects of Google's paid and organic results to returns. As seen from the case study by Google through (.....) results, the click through rates for the ads that are not connected to the relevant results is (.....), the advertisement interaction rate is (.....)%. The same study looks into how an advertiser's organic result ranking affects the increase in ad clicks. when the rank is (.....) in organic results, ad clicks causes a rate of (.....)% in ad clicks, for (.....) rank in organic results, the increase is (.....)%, (.....) and (.....) ranks in organic results, the increase is (.....)%. The first point shown by the said document is that Google may display ads irrelevant to the query. The second point is that users interact with and click that area mostly despite the first point said. Third is that the website displayed even at the top may bear a considerable loss in click through rate if it does not give ads. Lastly, if queries displayed at the fifth and lower rows do not give ads, they have a very low chance to take clicks. Moreover, Google's said customers statements show their concerns that a website being more and more dependent to the paid channel might cut off its organic traffic. Consequently, the document is very important because it shows the effects of AdWords on websites and organic traffic that is trying to compete with that area.

(.....)

(547) In light of the findings above, most of the users benefiting from Google search services do not perceive ads in Google results as ads, which increases the effects of Google's ad services on organic results. Moreover, the said fact distorts competition between general search results to the disadvantage of organic results by using the quality of the content provided by organic results. Taking into account Google's intention to increase its revenues by displaying the ads that might take the most clicks instead of the most relevant results, it is concluded that Google's practices do not increase consumer welfare.

Conversion to Shopping Rates

(548) Websites' conversion rates related to the traffic they take from Google ads an organic results in order to determine whether Google's practices in question leads to anticompetitive foreclosure to the detriment of consumers. The average annual rates pertaining to the websites that are able to obtain the relevant information is given in the table below:

Table 36: Conversion to Shopping Rates (%)

Website	Year	Google Organic	Google AdWords	Google Shopping
Boyner	2013	(.....)	(.....)	
	2014	(.....)	(.....)	
	2015	(.....)	(.....)	
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Çiçekmarket	2011		(.....)	
	2012		(.....)	
	2013		(.....)	
	2014		(.....)	
	2015	(.....)	(.....)	
	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
Çiçeksepeti	2011	(.....)	(.....)	(.....)
	2012	(.....)	(.....)	(.....)
	2013	(.....)	(.....)	(.....)
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
D&R	2013	(.....)	(.....)	
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Idefix	2011	(.....)	(.....)	
	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)

	2019	(.....)	(.....)	(.....)
Defacto	2012	(.....)	(.....)	(.....)
	2013	(.....)	(.....)	(.....)
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
	Enuygun	2011	(.....)	(.....)
2012		(.....)	(.....)	
2013		(.....)	(.....)	
2014		(.....)	(.....)	
2015		(.....)	(.....)	
2016		(.....)	(.....)	
2017		(.....)	(.....)	
2018		(.....)	(.....)	
2019		(.....)	(.....)	
Evidea	2012	(.....)	(.....)	
	2013	(.....)	(.....)	(.....)
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Gittigidiyor	2013	(.....)	(.....)	(.....)
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Glokal	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Hepsiburada	2011	(.....)	(.....)	(.....)
	2012	(.....)	(.....)	(.....)
	2013	(.....)	(.....)	(.....)
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Bilyoner ⁹⁴	2014		(.....)	
	2015		(.....)	

⁹⁴ (.....) submitted desktop and mobile conversion rates for organic clicks separately. Mobile data

	2016		(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Konyalisaat	2019	(.....)	(.....)	(.....)
Lcwaikiki	2011	(.....)	(.....)	
	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	
	2015	(.....)	(.....)	
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Morhipo	2011	(.....)	(.....)	
	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Nesine	2015	(.....)	(.....)	
	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Pegasus	2011	(.....)	(.....)	
	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	
	2015	(.....)	(.....)	
	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Özaltun	2011	(.....)	(.....)	
	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	
	2015	(.....)	(.....)	
	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
	2011	(.....)	(.....)	

which are lower are used in the table

Trendyol	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
Yemeksepeti	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Zingat	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Tatilburada	2015	(.....)	(.....)	
	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
N11	2013	(.....)	(.....)	(.....)
	2014	(.....)	(.....)	(.....)
	2015	(.....)	(.....)	(.....)
	2016	(.....)	(.....)	(.....)
	2017	(.....)	(.....)	(.....)
	2018	(.....)	(.....)	(.....)
	2019	(.....)	(.....)	(.....)
ETS	2011	(.....)	(.....)	
	2012	(.....)	(.....)	
	2013	(.....)	(.....)	
	2014	(.....)	(.....)	
	2015	(.....)	(.....)	
	2016	(.....)	(.....)	
	2017	(.....)	(.....)	
	2018	(.....)	(.....)	
	2019	(.....)	(.....)	
Source: Information and Documents acquired from undertakings				

(549) The table above shows that conversion to shopping rates obtained from Google's different traffic sources differ from undertaking to undertaking and one may be higher than the other. Concerning 14 out of 24 websites, organic traffic rate resulted in a higher conversion date compared to text ad traffic in the period for which the data were submitted. This shows that although they are positioned on a more advantageous place compared to organic results, text ads' performance for directing users and/or websites to what they are looking for is not better than organic results.

(550) On the other hand, Google submitted the following explanation about one of its algorithm updates "Ads Above The Fold" in its written plea:

“Ads above The Fold algorithm aims to detect websites which focus on displaying ads without providing any content related to their search to the users and make it difficult for users to reach the main content. The algorithm lowers such websites’ ranking because they do not provide good user experience and thus they are less practical results. In detail, the algorithm detects websites that display ads on a large part of the above the fold area and lowers their ranking. These algorithms operate on a general level on the internet. In another words, this algorithm is built on the collective ads displayed on above the fold area.”

(551) It is seen from the explanations above that Google stated that websites displaying ads on a large part of the above the fold area make it difficult for users to access to the “main content” This behavior is detected by Google’s algorithms and such websites lose their ranking in organic results. Therefore, with that explanation, Google accepts that if a large part of the screen is covered by ads, consumer welfare will decrease and this practice will complicate access to the target content for users.

(552) Accordingly, while Google is punishing prioritizing ads over content on a website visited by a user, they break that rule on their own website and feature ads over the content. Google follows a method to decrease organic clicks and increase its revenues by displaying its text ads on the top of organic results in a way to cover an area more than the first screen, all of the screen or most of the screen, without following any assessment criteria for organic results. As a result, it is concluded that Google favors text ads that generate income for it and excludes organic results that are trying to compete with ad results in an area, which is indispensable for undertakings providing services online.

(553) In light of the observations and assessments given above, it is concluded that Google displays its text ads with increasing frequency at the top of general search results page, which is the most visited area. As a natural consequence of this, Google complicated the activities of websites listed among organic results and distorted competition in content provision services market in favor of text advertisements. The detailed analyses made above shows that Google’s practices in question lead to anticompetitive foreclosure effects with respect to organic results. Moreover, Google’s practices in this area may create bigger effects.

(554) Moreover, it is also found that advertisement nature of text ads became more and more ambiguous due to the manner of displaying and labeling. This practice might increase foreclosure effects that are disadvantageous to organic results were trying to compete with text ads. Accordingly, it is concluded that Google should show that text ads are advertisements in a more understandable and clear manner.

(555) On the other hand, it is concluded that it is not possible, according to the observations made within the scope of the file, that Google violated competition by means of algorithm changes and giving incomplete information thereof. Lastly, within the scope of the claims that Google makes algorithm changes intentionally to exclude organic search results, The claims that text ads given by websites effect their ranking in organic results, And by allowing ads belonging to other websites, Google leads websites to give ads for their own brands and promotes dependency to ads. It is not necessary to make any interventions under the scope of the Act no 4054.

(556) Consequently, it was decided that Google violated article 6 of the Act no 4054 by means of positioning text ads at the top of general search results extensively and in a way that their advertisement nature is not clear and thus complicating the activities of organic results, which does not generate income.

I.4.5.1. Assessment according to the Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position

(557) Article 16(3) of the Act no 4054 includes the provision that “*an administrative fine up to ten percent of annual gross revenues of undertakings and associations of undertakings or members of such associations to be imposed fines, which generate by the end of the financial year preceding the decision, or which generate by the end of the financial year closest to the date of the decision if it would not be possible to calculate it and which would be determined by the Board, will be imposed to those who committed behavior prohibited in Articles 4,6 and 7 of this Act.*” Article 1 of the Regulation On Fines To Apply in Cases Of Agreements, Concerted Practices And Decisions Limiting Competition, And Abuse Of Dominant Position (the Regulation) explains the purpose the Regulation as follows: “to provide for the procedures and principles relating to setting fines to be given to those undertakings and associations of undertakings or the members of such associations, as well as managers and employees thereof, that engage in behaviors prohibited under Article 4 and 6 of the Act No. 4054 on the Protection of Competition, pursuant to Article 16 of the same Act.”

(558) Within the framework of the explanations above, it is concluded that Google, which is found to be dominant in the market for general search services, abused its dominant position, violated article 6 of the Act no 4054, consequently, according to article 16 of the Act no 4054 and the provisions of the relevant Regulation, administrative fines should be imposed on the undertaking.

(559) According to article 4 of the Regulation “Principles relating to the determination of fines”, in determining fines to be applied to undertakings, first, the base fine should be calculated within the framework of Article 5 of the Regulation. Then, if there are any in the material fact, aggravating and mitigating factors set by the Articles 6 and 7 of the Regulation are applied and the base fine is increased or reduced. If the amount of fine to be determined in accordance with the provisions of the Regulation exceeds ten percent, fines exceeding this limit are reduced to ten percent, as the fines cannot exceed the limit determined in the Act no 4054. There is a distinction between “cartels” and “other violations” regarding the calculation of the base fines in article 5(1) of the Regulation. Article 3 of the Regulation includes the definition of both concepts. Accordingly cartel is defined as “*agreements restricting competition and/or concerted practices between competitors for fixing prices; allocation of customers, providers, territories or trade channels; restricting the amount of supply or imposing quotas, and bid rigging*”. Other violations are defined as “*behaviors that are prohibited under Article 4 and 6 of the Act on the Protection of Competition No. 4054 and which are outside the definition of cartel*”. Accordingly, Google’s practices violating article 6 of the Act no 4054 are considered under the category “other violations”.

(560) Per the second paragraph of article 5 of the Regulation on Fines, “in the determination of the rates written under paragraph one, issues such as the market power of the undertakings or associations of undertakings concerned, and the gravity of the damage which occurred or is likely to occur as a result of the violation shall be considered”. Due to Google’s high market power, the effects of its practices contrary

to Article 6 of the Act no 4054 will be higher. This fact should be taken into account. According to the said provisions, (...) % is taken as a basis for the base fine.

(561) Another criterion for the determination of fines listed in article 5(3) of the Regulation is the duration of the violation. First, it is known that Google AdWords started to operate in Turkey in 2004. However, in order to benefit from the data submitted by the undertakings more, the analyses in the filed used, in a general sense, the data pertaining to the period between 2013 and 2019, which includes more data from undertakings. As a result of those analyses, it is concluded that article 6 of the Act is violated. Therefore, the practices in question are found to have restricted competition for more than five years; thus, the base fine, which is determined according to article 5(1) of the Regulation, should be increased by one fold according to article 5(3)(a). Accordingly, the base fine to be imposed on Google is set as (.....) %.

(562) According to article 4 of the Regulation on Fines, following the calculation of the base fine, aggravating and mitigating factors are considered within the framework of Articles 6 and 7 of the Regulation, and an increase and/or a reduction is made. Within this framework, under the scope of article 6(1)(a), the base fine may be increased by one fold “for each instance of repetition in case the violation is repeated”.

(563) The repetition in the said provision is not limited to the practices in the same market and/or similar practices as the previous violations by the undertaking. The Authority’s case law is in line with that provision.⁹⁵ In order to increase the fine due to the repetition of the practices contrary to the Act no 4054, it is not necessary that both offenses violate the same article or the practices leading to violation be similar.

(564) In the Board decision dated 19.09.2018 and numbered 18-33/555-273, it was concluded that Google economic unity violated article 6 of the Act no 4054 by means of the following: the conditions in MADAs signed by Google with device manufacturers that Google search would be assigned as default in the specified points, Google widget would be positioned on the main screen and Google Webview would be the only and default component for the relevant function; the conditions in RSAs that ensure the installment of Google search exclusively in devices. Consequently, the undertaking was imposed administrative fines. As a result of a recent investigation, Google is found to have violated article 6 of the Act no 4054. Therefore, the repetition criterion applies, which is accepted as an aggravating factor according to article 6(1)(a) of the Regulation on Fines. Consequently, it is decided that the fine would be increased by half fold on the basis of the base fine to be imposed to Google and (.....) % fines would be imposed.

(565) On the other hand, Google filed a case for the annulment of the administrative transaction and the action is still in progress. Article 55(2) of the Act no 4054 on “*Judicial Review against the Decisions of the Board*” includes the provision “*appealing against decisions of the Board does not cease the implementation of decisions, and the follow up and collection of administrative fines.*” With respect to repetition, neither the Act no 4054 nor the Regulation requires judicial certainty. Indeed, according to a decision of the Council of State, concerning another administrative sanction, the determinant factor is whether judicial certainty is clearly necessary.⁹⁶ Moreover, the

⁹⁵ Board decisions dated 10.01.2019 and no 19-03/23-10 dated 16.02.2017 and no 17-07/84-34 dated 19.07.2017 and no 17-23/384-167 dated 28.11.2017 and no 17-39/636-276 dated 09.06.2016 and no 16-20/326- 146 dated 19.12.2013 and no 13-71/988-414 dated 06.06.2011 and no 11-34/742-230 dated 23.12.2009 and no 09-60/1490-379 dated 29.12.2005 and no 05-88/1221-353.

⁹⁶ The Decision of First Chamber of the Council of State E. 1996/189 K. 1996/218, 15.11.1996: “....The question is the date of the fine, as the law does not necessitate that the fines should be legally and

said decision also approved the provision that appealing against decisions does not cease the implementation of decisions, and the follow up and collection of administrative fines, in line with our evaluation. Consequently, with respect to considering repetition as an aggravating factor, it is not necessary to wait for the decision of the judiciary; an administrative decision establishing a violation is sufficient. In another words, it is not necessary to wait for the judicial certainty, administrative certainty is sufficient.

(566) Another issue to be taken into account is whether it is necessary to make a distinction between the violation to which the repetition criterion is applied and the violation which causes the repetition. There are not any provisions pointing to such distinction in the positive regulations. Therefore, the fine may be increased regardless of whether there is a difference between the violations.

(567) Lastly, a decision is taken about whether there are mitigating factors listed in article 7 of the Regulation within the scope of the file.

(568) It is also concluded that it is necessary to apply daily fines to Google in case Google fails to comply with the sanctions beside the administrative fines to be imposed for the violation of the Act no 4054.

I.4.5.2. Assessment of the remedies to terminate the violation

(569) As a result of the assessments made above, it is concluded that Google excluded organic results out of the market by means of displaying text ads on the most valuable and competitive part of the search result page in high density and in such a way that their advertisement nature is unclear, and distorted eyeball competition between websites. As a result of the conclusion that Google complicated the activities of organic results to the advantage of results that provide revenues and violated article 6 of the Act, in addition to the fines to be imposed, Google should amend its practices that are regarded as violations so that competition is established in the most effective way. The question is what the most effective and fair behavioral remedies will be.

(570) First, as stated above, within the scope of the file, Google led to anticompetitive foreclosure and decrease in consumer welfare to the disadvantage of the organic results by means of its conducts summarized below:

- Google displays text ads in general search result pages in such a position and density that organic results are excluded from the market.
- Google causes ambiguity about the advertisement nature of text ads.

(571) As known, one of the most discussed issues in competition law enforcement in digital markets is proportionate intervention. Under-regulation or over-regulation in those markets creates the risk of effecting incentives to make investments and

administratively certain, it is natural for the application of fines by the administration that the date when the official report is prepared and notified to the concerned or to the authorized persons is taken as a basis. The expression in article 31(b) of the Law “objection or annulment actions does not suspend the collection of fines.” verifies this opinion. The possibility that the fines given by the administration may be annulled by the administration upon objection or by judiciary bodies upon an action does not bring an obligation to wait for the result of the objection or action. Such approach will lead to an action contrary to the wording and spirit of the Law, by leading to a consequence that requires de facto non-enforcement of article 33(f).”

innovation. Technological progress is one of the vital conditions to survive in digital markets. Therefore, the most efficient remedy should take into account the power and incentive to make investments and innovation of both the undertaking concerned and its competitors.

(572) The first point to emphasize is, as stated before, what leads to the violation of the Act no 4054 is not Google’s advertisement revenues alone. It is necessary to interfere to the distortion and restriction of competition by Google’s practices for gaining revenues. Google is dominant in the market for general search services with a power similar to a monopoly. General search service is the primary traffic source for most of the websites. According to the findings, observations and assessments within the scope of the file, Google displays text ads in the most valuable part of an area provided as a search result, extensively, without clearly emphasizing their advertisement nature and effecting considerably the traffic of organic results. As a result, text ads are no longer a financing model of traditional channels –as defined by Google -. In some cases, text ads take a higher traffic than organic results.

(573) On an average desktop, laptop and mobile phone screen, there are respectively seven, five and three results in a query without AdWords ads or Google’s other vertical products or services on the first page. Some of the text ads may cover a larger area than a normal organic result. Consequently, the number of results that fit on the screen is lower.

(574) It is possible to use Google’s click and traffic data. According to the information provided by Google, on each general search result page, Google shows (.....) text ads at the top and (.....) text ads at the bottom at the most. The data given by Google shows that click through rates of the first four ad results have a tendency to increase in general and as of 2019 they correspond to (.....)%. When there are three text ads at the bottom of the page, totally, on average they take (.....)%. If Google displays ads at maximum amounts, on average more than (.....)% of the traffic on the first page goes to Google ads. The first page of Google general search service, which is the primary source of traffic for websites has more than (.....)% of the total traffic.

(575) Click through rates for October 9, 2019 in the data submitted as a sample are shown below:

Table 37: Click through rate for organic results (%)

Position	Average click through rate without displaying any advertisements	Average click through rate displaying at least one text ad
Position 1	(.....)	(.....)
Position 2	(.....)	(.....)
Position 3	(.....)	(.....)
Position 4	(.....)	(.....)
Position 5	(.....)	(.....)
Position 6	(.....)	(.....)
Position 7	(.....)	(.....)
Position 8	(.....)	(.....)
Position 9	(.....)	(.....)
Position 10	(.....)	(.....)

Position 11	(.....)	(.....)
Source: Google		

(576) As seen from the table, organic results which are affected the most by text ads are the ones placed at the top, with respect to click through rate. This shows the importance of visibility at the top of the search results and especially on the first screen and the competition to be placed on that area. There is a serious difference between click through rates of the text ads at the top and those of the text ads at the bottom (total click through rate for three ads at the top is (.....) and click through rate for three ads at the bottom is totally (.....)%). Moreover, according to the information given by Google, click through rates for ads at the first ten rows in Shopping Unit displayed at the top, right and bottom are respectively (.....) % (.....) % and (.....) % in October 2019. This supports the finding that there is serious competition among search results on the basis of position. Google also argued the importance of being on the first screen. As understood from the explanations above about Google's "Ads above the fold" update, Google states that websites displaying ads on a large part of the first screen complicate reaching "the main content" for users and Google algorithms lower such websites in organic results ranking.

(577) On the other hand, it is understood that Google acts more selectively in displaying text ads and displays text ads more extensively within the scope of the most searched queries. The click through rates of organic results for the first hundred most searched queries go back to (.....)%. This shows that when there is more competition, Google uses its power in the general search services market to the detriment of results that do not generate income more. Due to the network effects created by a multilateral market structure, websites wishing to benefit from general search services in the areas with higher user preference are left with no effective choice but giving ads to Google. In this way, Google abuses its dominance in one side of the market in another side to the advantage of its ads results.

(578) On the other hand, according to the information given by the sector, websites obtain most of their traffic (generally more than (.....)%) from mobile channels. Some of the websites that were asked for information stated that text ads in the mobile channel created more important effects due to the limited screen size. Moreover, according to the information submitted by Google, the amount of text ads is higher in the mobile channel than the desktop channel and click through rates for the text ads are higher.

(579) It is also found that in addition to the increasing density of text ads, Google made their advertisement nature unclear in time by making changes in its labeling methods. Within the scope of the file, in light of the assessments above, it was concluded that Google should show that text ads have advertisement nature in a more obvious way.

(580) Depending on the data above, Google should show text ads in a manner, size and/or position that organic results competing with those text ads are not excluded from the market.

(581) It is concluded that in light of the assessments above, to terminate the violation and to ensure the establishment of competition in the market, Google shall be imposed the following obligations,

- a. To be fulfilled and documented to the Competition Authority within six months as of the notification of the reasoned decision, Google should offer text

ads in a manner, size and/or position not to exclude organic results.

b. Google should submit the Authority the compliance measures it has prepared at least one month before the deadline established.

c. Google should submit an annual report periodically to the Authority for five years following the application of the first compliance measure.

J. CONCLUSION:

(582) According to the Report the Additional Opinion evidence collected, written pleas, the explanations made during the oral hearing and the scope of the file examined regarding the investigation conducted per the Board decision dated 13.12.2018 and numbered 18-47/732-M, it was decided

1. UNANIMOUSLY that the economic unity consisted of Google Reklamcılık ve Pazarlama Ltd. Şti., Google International LLC, Google LLC, Google Ireland Limited and Alphabet Inc. (Google) is dominant in the markets for general search services,
2. WITH MAJORITY OF VOTES THAT Google violated article 6 of the Act no 4054 by means of positioning text ads at the top of general search results at high densities and in a way that their advertisement nature is unclear and thus complicating the activities of organic results, which does not generate income, in content services market,
3. UNANIMOUSLY that according to third paragraph of Article 16 of the Act no 4054 and Article 5(1)(b), 5(2), 5(3)(b) and 6(1)(a) of the Regulation on Fines to Apply in cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position, amounting to (.....)% of the annual gross revenues which generated at the end of the financial year 2019 and which is determined by the Board,
 - Google Reklamcılık ve Pazarlama Ltd. Şti., Google International LLC, Google LLC, Google Ireland Limited and Alphabet Inc. shall be imposed severally 196.708.054,78 TL administrative fines
4. UNANIMOUSLY that to terminate the infringement and to ensure the establishment of efficient competition in the market, Google shall be imposed the following obligations:
 - a. To be fulfilled and documented to the Competition Authority within six months as of the notification of the reasoned decision, Google should offer text ads in a manner, size and/or position not to exclude organic results.
 - b. Google should submit the Authority the compliance measures it has prepared at least one month before the deadline established.
 - c. Google should submit an annual report periodically to

the Authority for five years following the application of the first compliance measure.

The decision can be appealed before Ankara Administrative Courts within 60 days as of the notification of the reasoned decision.

**THE REASON OF THE DISSENTING VOTE AGAINST THE COMPETITION
BOARD DECISION dated 12.11.2020 and no 20-49/675-295**

According to the decision of the Board dated 12.11.2020 and no 20-49/675-295, it was decided WITH MAJORITY OF VOTES THAT Google violated article 6 of the Act no 4054 by means of positioning text ads at the top of general search results intensely and in a way that their advertisement content is unclear and thus complicating the activities of organic results, which does not generate income, in content services market.

The claims regarding to text ads according to the investigation report are as follows:

- Text ads are displayed at the top of the search result page in increasing frequency, which negatively affects organic traffic.
- Google causes ambiguity about advertisement nature of text ads.
- Google promotes placing ads with brand names, resulting in websites allocating larger ad budgets to Google.
- Lastly, text advertisements given by websites affect their ranking in organic results.

There are not any findings that text ads affected the ranking of organic results.

I do not agree with the majority decision because Google uses a two-sided business model financed by advertisements there is not a determination that organic results' ranking are affected by text ads and text ads are distinguished from organic results with the expression "AD" and therefore article 6 of the Act no 4054 was not violated.

Arslan NARİN
Deputy Chairman