

**Pronouncement of the Final Decision Regarding the Investigation Concerning  
Certain Producers/Suppliers and Retailers Operating in the Fast Moving  
Consumer Goods Sector According to Article 49 of the Act No 4054 on the  
Protection of Competition**

According to the Report prepared and the Additional Opinion, evidence collected, written pleas, the explanations made during the oral hearing and the scope of the file examined within the scope of the investigation conducted per the Board decisions dated 26.04.2021 and numbered 21-23/271-M, dated 20.05.2021 and numbered 21-26/325-M, dated 19.08.2021 and numbered 21-39/557-M, dated 25.11.2021 and numbered 21-57/796-M and dated 27.01.2022 and numbered 22-06/84-M, it has been decided WITH THE MAJORITY OF VOTES in respect of Dođanay Gıda Tarım ve Hayvancılık San. Tic. AŞ (Dissenting votes: Board Members Şükran KODALAK and Hasan Hüseyin ÜNLÜ) and Coca Cola Satış Dağıtım AŞ (Dissenting vote: Deputy Chairman Ahmet ALGAN), UNANIMOUSLY in respect of other undertakings that

I. a) The following suppliers that are parties to the investigation

1. Coca Cola Satış Dağıtım AŞ
2. Dođanay Gıda Tarım ve Hayvancılık San. Tic. AŞ
3. Düzey Tüketim Malları Sanayi Pazarlama ve Ticaret AŞ
4. Eti Gıda San. ve Tic. AŞ
5. Frito Lay Gıda Sanayi ve Ticaret AŞ
6. Glaxosmithkline Tüketici Sağlığı AŞ
7. Haribo Şekerleme Sanayi ve Ticaret Ltd. Şti.
8. Pasifik Tüketim Ürünleri Satış ve Ticaret AŞ
9. Pepsi Cola Servis ve Dağıtım Ltd. Şti.
10. Red Bull Gıda Dağıtım ve Pazarlama Ticaret Limited Şirketi
11. Şölen Çikolata Gıda Sanayi ve Ticaret AŞ
12. Unmaş Unlu Mamuller Gıda Sanayi ve Ticaret AŞ

violated article 4 of the Act no 4054 by means of agreements or concerted practices with the nature of a hub and spoke cartel that aimed to fix retail sales prices through ensuring the coordination of sales prices and price increases among the retailers that are parties to the investigation and maintaining the coordination for their products, within this framework, acting as an intermediary for the exchange of competitively sensitive information such as retailers' future prices and price changing dates; they are equally and jointly responsible for the violation together with the retailers;

b) It has been decided UNANIMOUSLY that according to third paragraph of Article 16 of the Act and

i) Article 5(1)(a), 5(2) and 7(1) of the Regulation on Fines to Apply in cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position, at a certain rate of the annual gross revenue which generated at the end of the fiscal year 2021 and which is determined by the Board, by discretion,

1. Doğanay Gıda ve San. Tic. AŞ shall be imposed 3.173.458,06- TL
2. Glaxosmithkline Tüketici Sağlığı AŞ shall be imposed 8.424.667,29- TL,
3. Şölen Çikolata Gıda Sanayi ve Ticaret A.Ş. shall be imposed 10.453.449,09- TL administrative fines,

ii) According to article 5(1)(a), 5(2), 5(3)(a) and article 7(1) of the aforementioned Regulation, at a certain rate of the annual gross revenue which generated at the end of the fiscal year 2021 and which is determined by the Board, by discretion

4. Coca Cola Satış Dağıtım AŞ shall be imposed 181.439.566,24- TL
5. Düzey Tüketim Malları Sanayi Pazarlama ve Ticaret AŞ shall be imposed 48.190.012,34- TL
6. Eti Gıda San. ve Tic. AŞ shall be imposed 115.509.289,26- TL
7. Frito Lay Gıda Sanayi ve Ticaret AŞ shall be imposed 58.636.410,54- TL,
8. Haribo Şekerleme Sanayi ve Ticaret Ltd. Şti. shall be imposed 6.803.118,86- TL
9. Pasifik Tüketim Ürünleri Satış ve Ticaret AŞ shall be imposed 70.668.170,63- TL,
10. Pepsi Cola Servis ve Dağıtım Ltd. Şti shall be imposed 55.504.131,51- TL
11. Red Bull Gıda Dağıtım ve Pazarlama Ticaret Limited Şirketi shall be imposed 25.711.530,05- TL
12. Unmaş Unlu Mamuller Gıda Sanayi ve Ticaret AŞ shall be imposed 16.148.672,59- TL administrative fines,

c) It has been decided WITH THE MAJORITY OF VOTES (Dissenting votes: Chairman Birol KÜLE, Board Member Ayşe ERGEZEN) that sufficient evidence could not be found showing that Kent Gıda Maddeleri Sanayi ve Ticaret AŞ violated article 4 of the Act no 4054 by means of agreements or concerted practices with the nature of a hub and spoke cartel that aimed to fix retail sales prices through ensuring the coordination of sales prices and price increases among the retailers that are parties to the investigation and maintaining the coordination for its products, within this framework, acting as an intermediary for the exchange of competitively sensitive information such as retailers' future prices and price changing dates; therefore, it is not necessary to impose administrative fines to the undertaking concerned,

d)

i. It has been decided UNANIMOUSLY that

- BİM Birleşik Mağazalar AŞ
- CarrefourSA Carrefour Sabancı Ticaret Merkezi AŞ
- Migros Ticaret AŞ
- Şok Marketler Ticaret AŞ and
- Yeni Mağazacılık AŞ

coordinated prices and/or price increases by indirect contact through common suppliers; shared competitively sensitive information such as future prices, price increasing dates, seasonal activities and campaigns through the common suppliers; intervened in the prices of undertakings which discounted prices or which did not increase prices yet when the prices in the overall market were increasing to ensure that the prices increased to the disadvantage of the consumers; constantly monitored compliance with the collusion by different strategies such as reducing (breaking) the prices specific to a product when the competitors' prices did not increase; thus, the aforementioned retailers violated Article 4 of the Act no 4054 by agreements or concerted practices with the nature of a hub-and-spoke cartel that aimed to fix the retail prices of many products they sold,

ii) Accordingly, it has been decided UNANIMOUSLY that

- BİM Birleşik Mağazalar AŞ
- CarrefourSA Carrefour Sabancı Ticaret Merkezi AŞ
- Migros Ticaret AŞ
- Şok Marketler Ticaret AŞ and and
- Yeni Mağazacılık AŞ

shall be imposed administrative fines according to article 16(3) of the Act no 4054, however, since they were imposed administrative fines according to the Board decision dated 28.10.2021 and numbered 21-53/747-360, within the framework of "ne bis in idem" principle, it is not necessary to impose new administrative fines under the scope of this investigation,

e) It has been decided UNANIMOUSLY that

i) Beypazarı İçecek Pazarlama Dağ. Amb. Tur. Pet. İnş. San. ve Tic. violated article 4 of the Act no 4054 by means of agreements or concerted practices with the nature of a hub and spoke cartel that aimed to fix retail sales prices through ensuring the coordination of sales prices and price increases among the retailers that are parties to the investigation and maintaining the coordination for its products, within this framework, acting as an intermediary for the exchange of competitively sensitive information such as retailers' future prices and price changing dates; it is equally and jointly responsible for the violation together with the retailers,

ii) Accordingly, it has been decided WITH THE MAJORITY OF VOTES (dissenting votes: Deputy Chairman Ahmet ALGAN, Board Member Ayşe ERGEZEN) that Beypazarı İçecek Pazarlama Dağ. Amb. Tur. Pet. İnş. San. ve Tic. AŞ shall be imposed administrative fines according to article 16(3) of the Act no 4054, however, since it was imposed administrative fines according to the Board decision dated 18.05.2022 and numbered 22-23/379-158, within the framework of “ne bis in idem” principle, it is not necessary to impose new administrative fines under the scope of this investigation,

II. a) It has been decided WITH THE MAJORITY OF VOTES in respect of Coca Cola Satış Dağıtım AŞ (Dissenting vote: Deputy Chairman Ahmet ALGAN), in respect of Kent Gıda Maddeleri Sanayi ve Ticaret AŞ (Dissenting vote: Board Member Şükran KODALAK), UNANIMOUSLY in respect of other undertakings that the following suppliers that are parties to the investigation

1. Coca Cola Satış Dağıtım AŞ
2. Doğanay Gıda Tarım ve Hayvancılık San. Tic. AŞ
3. Eti Gıda San. ve Tic. AŞ
4. Frito Lay Gıda Sanayi ve Ticaret AŞ
5. Haribo Şekerleme Sanayi ve Ticaret Ltd. Şti.
6. Kent Gıda Maddeleri Sanayi ve Ticaret AŞ
7. Pasifik Tüketim Ürünleri Satış ve Ticaret AŞ
8. Pepsi Cola Servis ve Dağıtım Ltd. Şti.
9. Şölen Çikolata Gıda Sanayi ve Ticaret AŞ
10. Unmaş Unlu Mamuller Gıda Sanayi ve Ticaret AŞ

violated article 4 of the Act no 4054 by means of determining the resale prices of undertakings operating at the retail level;

b) According to third paragraph of Article 16 of the Act and,

i) Article 5(1)(b), 5(2) and 7(1) of the Regulation on Fines to Apply in cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position, at a certain rate of the annual gross revenue which generated at the end of the fiscal year 2021 and which is determined by the Board, by discretion

1. Şölen Çikolata Gıda Sanayi ve Ticaret AŞ shall be imposed 5.226.724,54-TL

ii) According to article 5(1)(b), 5(2), 5(3)(a) and 7(1) of the aforementioned Regulation, at a certain rate of the annual gross revenue which generated at the end of the fiscal year 2021 and which is determined by the Board, by discretion

2. Coca Cola Satış Dağıtım AŞ shall be imposed 90.719.783,12- TL,

3. Dođanay Gıda Tarım ve Hayvancılık San. Tic. shall be imposed 2.380.093,55-TL
4. Eti Gıda San. ve Tic. shall be imposed 57.754.644,63-TL
5. Frito Lay Gıda Sanayi ve Ticaret AŞ shall be imposed 29.318.205,27-TL,
6. Haribo Şekerleme Sanayi ve Ticaret Ltd. shall be imposed 3.401.559,43-TL
7. Kent Gıda Maddeleri Sanayi ve Ticaret AŞ shall be imposed 8.775.984,66- TL,
8. Pasifik Tüketim Ürünleri Satış ve Ticaret AŞ shall be imposed 35.334.085,31-TL,
9. Unmaş Unlu Mamuller Gıda Sanayi ve Ticaret AŞ shall be imposed 8.074.336,29- TL,

iii) It has been decided UNANIMOUSLY that according to article 5(1)(b), 5(2), 5(3)(b) and 7(1) of the aforementioned Communiqué, at a certain rate of the annual gross revenue which generated at the end of the fiscal year 2021 and which is determined by the Board, by discretion

10. Pepsi Cola Servis ve Dağıtım Ltd. Şti. shall be imposed 37.002.754,34-TL administrative fines,

c) It has been decided UNANIMOUSLY that since sufficient evidence could not be found showing that Düzey Tüketim Malları Sanayi Pazarlama ve Ticaret AŞ and Red Bull Gıda Dağıtım ve Pazarlama Ticaret Limited Şirketi violated article 4 of the Act no 4054 by means of determining the resale prices of undertakings operating at the retail level, it is not necessary to impose administrative fines to the undertakings concerned,

III- It has been decided UNANIMOUSLY that since no evidence was found showing that Horizon Hızlı Tüketim AŞ violated the Act no 4054, it is not necessary to impose administrative fines to the undertaking concerned

with the decision subject to review before Ankara Administrative Courts within 60 days as of the notification of the reasoned decision.