

**Distinguished Executive,**

**Distinguished Media Member,**

I am glad to share with you "**2015 Competition Letter**", the seventh of the Competition Letters, which we have been publishing since 2009. We have tried to address different groups of the public that we consider **our institutional shareholders** in our letters with changing themes every year. We wrote and published our first two letters with the aim of informing the public about competition law and enforcement. Considering enterprises, we focused particularly on how **small and medium sized enterprises** would comply with competition law in our third letter. The main subject of our fourth letter was "public policies and practices which negatively affect competition in the markets" and we tried to take attention to competition issues stemming from public practices by reaching our **public executives working in central and local administrations** through the letter. For the fifth letter, we chose **consumers** as our target and we discussed the contribution of competition law and policy to consumer welfare by dealing with "the relation between competition policy and the protection of consumers". Last year, our letter reached **professional organizations and non-governmental organizations** and emphasized the importance of their roles in the establishment of a fair and competitive system.

Even though the themes and the addressees of our letter have varied, our aim remains the same: to increase agency effectiveness, to contribute to the development of competition culture in our country and to increase the awareness of our shareholders with respect to "**the concept of competition**" and "**competition law**". Behind our efforts so-called "**competition advocacy**" is **our institutional mission** which we describe as "**to ensure, protect and develop a competitive environment**". This mission is such a comprehensive and important responsibility that it cannot be given to a single public authority.

Competitive system is beneficial for all. The existence of a competitive system where national resources are used efficiently is a modern necessity to ensure social development and increase welfare. Beside the freedom of enterprises, protection of consumers is also among the **indispensable elements** of this necessity. In a competitive system while competitive power and the increase in efficiency are important, it is expected that power/and or dominant position will not be abused.

**Sustainability** in terms of competitive approach is possible first of all by adopting the concept of fair competition as a socially accepted and supported **value**. The one that is better, more innovative and leading should be awarded in a race which ensures fairness and deserved gains and where objective rules prevail.

Modern society is media society. As an indispensable part of democratic societies, the media is often described as the **fourth power** as it has power to inform, lead and criticize in every field of our lives from the political will to public agencies and private enterprises. Due to this nature, our media organizations have a peculiar responsibility that no other sector has. We must accept that the media is a strategic opportunity or a factor in increasing the **life quality** of the society and the individual in all its aspects.

The approach of printed, visual or virtual media organs to competitive market system may lead to socially important results. The decisive criterion for being successful in economic as well as social and political areas will be **merit** only if fair and competitive communication environment, understanding and mentality are established. Undoubtedly, the sufficiency, existence or lack of this social recognition is directly related to the efficiency of social communication. From this point of view, **the media** is not only one of our important shareholders but also a strategic partner with its undeniable and unsubstituted role in reaching our other shareholders.

Believing this, we chose "**the role of the media in the development of competition culture**" as the main theme of "**2015 Competition Letter**". I wish that our letter will not be considered only a text reflecting our institutional opinion but an invitation to strengthen our cooperation with you, valuable media members, to receive your valuable criticisms and advice.

On this occasion, on behalf of our Authority, I extend our respects and wish you success.

**Prof. Dr. Nurettin KALDIRIMCI**  
**President**

## Free Competitive Environment and Competitive Approach

A fair competitive environment or a competitive order is beneficial for all. In this sense, competition is a universal fact, legal competition is a social value.

Although the benefits of competition are clear, it is not always possible to obtain the benefits expected from free market system with a completely liberal approach. In order to increase the efficiency of the famous "**invisible hand**", it may be necessary to set up the rules of the game, make regulations or public interventions. Within this framework, competition laws which form the legal infrastructure of competition law and policy are considered "**the constitution of market economy**". There is a close relationship between the existence of a fair competition environment in a general sense and economic performance and competition power. Long-term competitive market structure and competition law and policy as a part of the strategy that ensures and protects that structure are among the basic dynamics of a continuous and stable, in other words a sustainable, economic growth.

We can see concrete examples in our daily lives of the benefits of choosing a competitive market and of the competitive system appearing within the framework of this choice. If, in a system, undertakings compete with each other and the one who is better wins, it means that not only the freedom of entrepreneurs and consumers but also product variety, price competition, high quality, innovation and efficiency prevail there. In markets without factors restricting or preventing competition, new entries become easier and new entrepreneurs are encouraged; besides, all undertakings, small or large, try to use their sources in the most efficient way and succeed. Undoubtedly, consumers are also among the winners of this wealth and welfare process.

A picture of Turkey, which is changing and developing with respect to competition, is our common observation. A competitive power allowing globalization and operating in international markets as well as privatization and liberalization practices reflect the new environment and competition concept. Developments visible in many markets for goods or services for instance clothing, food, education, health, telecommunication, aviation services, transportation etc. increase the importance of regulations for protecting and improving competition, thus "**competition rules**" generally in the economy and particularly in various markets.

In this process, the understanding in public services is changing while private sector actors do the math of being strong and survive. What is important both in the level of undertakings and the country as a whole, is to operate in a competitive environment, away from a protection. Competitive power of

undertakings that become successful in a competitive environment will increase. At the same time an economy composed of such undertakings will have "**sustainable competitive power**".

A process where competition is institutionalized will ensure that resources are used efficiently at all levels. An economy with competitive strength that prioritize consumer welfare and economic freedom is possible if a competitive system is established, popularized and institutionalized. This is where the need to create and develop a competitive culture stems from.

## **There are Three Basic Prohibitions in the Act no 4054 on the Protection of Competition!**

It is relevant to mention shortly about the scope and the principles of the Competition Act.

1- As is known, the most concrete example of anticompetitive economic power and conduct is cartels. **Cartels** are the agreements between undertakings for determining market elements such as prices, the amount of supply, sales conditions, etc., bid rigging or sharing markets on the basis of customers or territories. Cartelist tendencies prevent and restrict competition! A short-term, cartel-based business policy is doomed to lose against global economic conditions in the long term. In order to gain locally and globally sustainable competitive power, cartelist tendencies should be avoided. Moreover, cartels cause unfair income transfer from consumers to firms. Therefore, such anticompetitive agreements are clearly prohibited in article 4 the Competition Act.

Cartels are treated differently than other anticompetitive conduct in competition law because of the serious damages they cause to the economy and heavy fines are imposed against cartels. However the fight against cartels is not limited to **the fines imposed to companies** but administrative sanctions are supported with other sanctions such as **imposing fines on managers who are found to have a decisive influence** on a cartel and **claiming damages** for the losses in private law. On the other hand, those companies and/or their employees who inform the Authority that they are a part of a cartel may be completely or partly immune from penal sanctions.

2- Another major prohibition in the Act is **the abuse of market power by dominant undertakings**. According to article 6 of the Act, it is accepted that a dominant undertaking has the power to determine economic parameters such as price, supply, sale conditions, by acting independently of its competitors and customers. In this sense, dominant undertakings have a special responsibility compared to other undertakings within the framework of the Competition Act. An action by an undertaking that is normal

within the scope of the Act may be deemed an abuse and thus an infringement of competition if carried out by a dominant undertaking.

An example of abuse is the conduct by a dominant undertaking to prevent the entry of, exclude from the market or complicate the activities of competitors by applying below-cost sales or closing the distribution channels for a long time. Similarly, the article prohibits restriction by such undertakings of the production, sales or technical development of a good or service and use their advantages and powers stemming from dominant position in a way to distort competition in the market.

3- The third pillar of market monitoring by the Authority is the **control of mergers and acquisitions**, which is addressed under article 7 of the Act. Certain types of privatizations are also dealt with under the scope of the same article. If the turnovers of parties to such transactions exceed the thresholds determined by the Competition Board, mergers and acquisitions are subject to the authorization of the Board.

### **The Support of the Media is Necessary for an Integrative Approach!**

The task of protecting and developing a fair and competitive economic system is beyond the capacity and power of a single public agency. The success of the Competition Authority, which is in charge in this field, depends on first of all the approval and support of the political will and the efficiency of cooperation and communication with other public agencies and the civil society because competitive policies will be successful to the extent that awareness about competition is increased. To the extent that our non-governmental organizations are convinced about the benefits of competition, they will adopt competitive policies and contribute to the establishment and protection of a competitive system. However, it is not possible to ignore the role of the media in the establishment of this cooperation and communication.

To the extent that our media organizations internalize competition, they will criticize and in a way monitor public policies from a competitive perspective and also mediate for the spread of the competition culture to larger groups. The media has a power that no other sector has: to inform, lead and/or influence people. Therefore, the need to internalize and comply with competition rules, which is in fact the responsibility of all undertakings, is a critical factor especially for the media.

Efforts to enhance competition culture in the society is not less valuable than the efforts to establish the belief to justice, strengthen democracy with all its institutions and processes or ensure the superiority of law since a competitive system where the one who deserves win, new products, ideas

and technologies compete, and the freedom of enterprise is protected is one of the components of a modern society that adopts pluralistic democracy and the rule of law principle. In the way to increase the quality of social life, the adoption of competition as a value of the modern society or a part of the political order undoubtedly requires an efficient communication environment.

The media has the opportunity to influence governments, opposition parties, administrative organs, in other words, politicians, bureaucrats and other actors in the decision making process. In democracies where the media is active, public policies are made not only in the legislative organ but also in the media environment and they are often subject to discussion in prime news, in the first pages of newspapers, columns and social media. Thus, mass communication has an undeniable role in realizing economic and social reforms that expand economic freedoms, contribute to the creation of more liberal and competitive markets.

It should be noted that the media can be a source for the policies to be determined and applied by the public administration. Moreover, it may encourage or be a decisive factor in the success of a practice by taking the attention of the public with respect to results.

It is vital for the development of a competitive policy that aims to increase social welfare in our country that our citizens make use of correct and efficient information flow and thus participate to the political processes that effect their own lives. No public policy should be isolated and exempt from criticism. The success or legitimacy of a public agency is not the result of only a law or the powers granted by the law. If the aim is to make policies increasing the welfare of all segments in the society, this aim can only be realized by ensuring a compromise and legitimacy at the social base. It is an attitude of ethic and principle for the media to use its informing, criticizing and monitoring power that it holds on behalf of the society for an efficient competition policy.

### **The Media is Not Only Our Shareholder but Also Our Strategic Partner in the Process Of Developing Competition Culture!**

1- Introductory and informative news flow together with the existence and intensity of comments and assessments stating that competition is a social value will accelerate not only the creation of a competitive environment but also social change and progress in every field. The key to success depends on the delivery and comprehension of the message about competitive approaches and practices. Results or success deserved or earned according to competitive game rules required by fair competition should be recognized by the public and awareness should be created in this subject. An

educative and leading media environment that awards success and discourage undeserved gains will contribute to the creation and development of competition culture and maximize competitive awareness.

2- Every kind of publication towards promoting competition, increasing awareness and informing citizens in this field not only in economic issues but also in other areas in social life is a strategic contribution to the popularization of competition.

The process of the creation of an education system that promotes critical and creative thinking and initiative abilities and of a social environment that awards deserved success for our children and the youth may be strengthened and accelerated if the media pursues this social aim. The power of the media has also an undeniable role in the establishment of a business culture and ethic based on competition. Therefore, it is important to explain the benefits of competitive system to the society on every occasion, to increase competitive awareness of our citizens and make each individual the guard of this mission.

3- The media may take an important role with respect to taking the attention of the public to serious competition infringements that result in increase in the prices of essential goods and services, affecting consumers' daily life. Especially news and discussions about the goods consumed or the services used the most by citizens will help taking the attention and interest of the public to certain issues.

4- Including the decisions of the Competition Board comprehensively and in a clear way in economy news and discussion of economic and social burden of competition infringements in television and radio channels as well as in the social media will provide legitimacy and power to the efforts against competition infringements. Starting from this point, legal regulations in our country and actions based on those regulations will be meaningful and understandable in the eyes of the public.

5- The media has also the power to influence the actions and decisions of undertakings and the professional associations formed by those undertakings. Our corporate experience shows that in a significant part of the examinations and investigations conducted by the Authority, undertakings concerned are not aware that they have violated competition rules. We often see that the employees and representatives of undertakings make their defenses saying "**We were not aware that this conduct constitute an infringement of competition**" or "**If we had known, we would have terminated it.**" These late confessions or recognitions unfortunately do not save undertakings from severe administrative fines. Therefore, while on one hand the damages of competition infringements are

reflected to end consumers, they place a burden on the financial power of the small and medium sized undertakings involved in the infringement.

6- The Media is also an important source of information in detecting competition infringements. Like the competition authorities in developed countries, the Competition Board has a power to conduct ex officio examinations and investigations. In this sense, the news in the media may form the basis of such examinations. The role of the media as a source of information is not limited to the detection by the Authority of competition concerns in certain markets or non-notified mergers and acquisitions. The media may lead possible complaints and applications to the Authority as a source of information for undertakings and citizens. For instance, publications about leniency applications that grant partial or complete immunity from fines to cartel members who informed the Authority about the cartel will help the fight against cartels gain a broad social support.

### **We Expect Your Attention and Support!**

Our primary expectation from the media which is one of our important institutional shareholder and strategic partner is the acceptance of this letter as an invitation for a broader and comprehensive cooperation. It will make a difference if columnists write, even once or twice in a year, about the concept of competition, benefits of competition and efforts in our country about competition law and policy; make criticisms or give advices. It will be educative and warning if economy reporters follow competition law enforcement closely and forward the relevant information to the public. We request from chief editors and news directors that they pay attention and take initiatives for news, interviews, public service announcements and discussion programs about this subject and we would be grateful if they do so.

It should be noted that efforts for the institutionalization of competition advocacy will be successful to the extent that it is seen as a common area of responsibility of all social institutions in an integrative approach. In this context, an efficient "**competition advocacy**" performed with the support of the media will not only increase awareness about the role and activities of the Competition Authority, but also contribute to the transfer of economic and social benefits achieved from the fight against competition infringements to the society. Reserving our institutional responsibility, explaining the benefits of a competitive system to the society in lay terms will be a valuable support in terms of the comprehension of the objectives of competition policy and solving competition problems citizens face in daily life.



As a result, it is undoubted that the interest and support of the media will provide very important contributions to the expansion of competitive awareness and efficient application of competition law.

With these considerations, I wish you success and extend my regards.