

CLIENT ALERT

COMPETITION | TURKEY

APRIL 2022

THE TRANSITION PERIOD FOR THE BLOCK EXEMPTION IN VERTICAL AGREEMENTS COMES TO AN END

Communiqué No. 2021/4 (the "**Communiqué No. 2021/4**") on the Amendments on the Block Exemption Communiqué No. 2002/2 for Vertical Agreements (the "**Communiqué No. 2002/2**") which narrows the block exemption's scope was published in the Official Gazette on 5 November 2021. The six-month transition period expires on 5 May 2022.

WHAT HAS BEEN CHANGED?

To sum up relevant principles under Turkish competition law, Communiqué No. 2002/2 sets forth a market share threshold condition so that undertakings benefit from the protection umbrella of the block exemption. More specifically, this exemption provided for the Article 4 of Law No. 4054 on the Protection of Competition (the "**Law No. 4054**"), which is akin to Article 101 of the Treaty on the Functioning of the European Union, shall apply on the condition that the market share held by the supplier does not exceed 40% of the relevant market on which it sells the contract goods or services, and the market share held by the buyer does not exceed 40% of the relevant market on which it purchases the contract goods or services. The Turkish Competition Authority (the "**TCA**") amended this market share by lowering the market share threshold from 40% to 30% in line with the regime defined in Article 3 of the Commission Regulation No 330/2010. The amendment of the market share threshold narrowed the block exemption's scope: Communiqué No. 2021/4 will therefore have implications on the undertakings currently benefiting from the block exemption regime. According to the provisional Article 3 of Communiqué No. 2021/4, the TCA granted a six-month transition period to undertakings that hold a market share of between 30 and 40% in their relevant product market, and which currently benefit from the vertical block exemption regime. Under Article 5 of Law No.4054, these undertakings may now fall out of the ambit of the block exemption.

ACTIONS TO CONSIDER

As the six-month transition period ends on 5 May 2022, if the undertakings that hold market share between 30 and 40% still want to benefit from the exemption, they need to re-evaluate their market shares in the relevant markets and confirm that they are below the new thresholds brought by Communiqué No. 2002/2. Otherwise, if the threshold is exceeded by the end of the transition period, they must check their compliance with the criteria applied in the assessment of individual exemption for the relevant vertical agreements and whether it is deemed necessary to submit an individual exemption application to the TCA. As mentioned above, the deadline for such undertakings to take the necessary actions to comply with the criteria applied in the assessment of individual exemption is 5 May 2022.

CONTACTS

ARPAT ŞENOCAK
senocak@odsavukatlik.com

İKLİM GÜLSÜN AYTEKİN
iklim.aytekin@odsavukatlik.com

In compliance with Turkish bar regulations, opinions relating to Turkish law matters that are included in this client alert have been issued by Özdirekcan Dündar Şenocak Ak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey. You can also find this legal update on our website in the News & Insights section: [gide.com](https://www.gide.com)

This newsletter is a free, periodical electronic publication edited by the law firm Gide Loyrette Nouel (the "Law Firm"), and published for Gide's clients and business associates. The newsletter is strictly limited to personal use by its addressees and is intended to provide non-exhaustive, general legal information. The newsletter is not intended to be and should not be construed as providing legal advice. The addressee is solely liable for any use of the information contained herein and the Law Firm shall not be held responsible for any damages, direct, indirect or otherwise, arising from the use of the information by the addressee. You may request access to, rectification of, or deletion of your personal data processed by our Communications department (privacy@gide.com).