



International Distribution Institute

TURKISH COMPETITION BOARD DECISION (16.12.2021)

LEGITIMITY OF A TOTAL BAN
REGARDING DEALER'S SALES
ON THIRD PARTY PLATFORMS

Merits of the Application

- Exemption Application
 - A total ban regarding the sales of the dealers from third party platforms
- Relevant Market
 - White Goods Market
- Regulatory Background
 - Restriction of internet sales and passive sales within Turkish VBE Communique

Review of the Turkish Competition Board

- Sales from dealer's web site or third party platforms! Any difference?

Relevant decisions of the EU Commission and the Turkish Competition Authority.

- *Pierre Fabre, Bang et Olufsen, Roma Medical, Ping, Stihl, Bikeurope, Guess – BSH, Jotun , Baymak.*
- *Ciba Vision, Sennheiser, Adidas, Asics, COTY (discussion..)*

Review of the Turkish Competition Board

- Total ban from the principle of proportionality!
 - Trademark image
 - Misleading information for consumers
 - Failure to monitor the sales process and step-in when necessary
- = In violation of article 4 of the Turkish Competition Act

Review of the Turkish Competition Board

Review of the TCA in consideration with the Turkish VBE communique

- **Equivalent Treatment Principle, Omnichannel Strategy, use of Showrooms!**

Review of the TCA in consideration with the requirements of an Individual Exemption

- **Free rider issue and efficiency assessment, benefits of third part platforms for Turkish consumers, Turkish digital market analysis, elimination of competition in the market.**

FINAL REMARKS

- Among one of the most liberal national competition authority approaches!
- Requires country specific analysis
 - IPR v.s. Competition Law (exhaustion of trademark right principle)
 - Use of Internet and third party platforms as a tool enhancing competition for developing country markets.