

***Important Cases of Turkish  
Competition Authority About  
Platform Markets***

**Esra KÜÇÜKİKİZ**  
**Competition Expert at**  
**TCA**

# Google Android

(Decision Date: 19.09.2018,  
Decision Number: 18-33/555-273)

Android Open Source Project

Open Source Android (OSA)  
(available on Internet)

- OSA does not contain an application store, so it is not preferable for device manufacturers.
- There are two ways to commercialize OSA:
  - Sign various contracts with Google
  - Integrate OSA with applications and application stores other than Google; called as Android Forks

# Google Android

## Relevant Product Markets

- Internet search services
- Providing internet search services on mobile devices
- Mobile online advertising
- Licensable mobile operating systems
- Mobile search engines
- Each function performed by each application in Google Mobile Services

## Relevant Geographic Market

- Turkey

# Google Android

## Assessments on Dominance

- Google is the only mobile operating system provider in Turkey
- Network effects
- Limited buyer power

*Dominant position in licensable mobile operating system market*

# Google Android

## Agreements Signed With Mobile Device Manufacturers

### 1. Anti-Fragmentation Agreement (AFA)

- Prevents mobile device manufacturers from distributing devices which include “Android Forks”

### 2. Mobile Application Distribution Agreement (MADA)

- Requires that mobile device manufacturers preinstall Google Play application store, specific Google applications (Gmail, Youtube etc.), Google Search and Google Search Widget
- Includes principles for positioning of applications in the device
- “Google Search” has to be assigned by default at points designated by contract, “Google Search Widget” should be located on the home screen, “Google Webview“ has to be assigned by default

# Google Android

## 3. Revenue Sharing Agreement (RSA)

- Signing with some device manufacturers on the request of them
- Sharing of the revenue with device manufacturers obtained from search traffic or Google app store
- Non-installation of competing search applications

# Google Android

## Assessments of the Board about MADA

- Licensable mobile operating systems and mobile search services-mobile search engines are two separate products
- Requirement of assigning Google Search and Google Webview as default and locating Google Search Widget on home screen to have mobile operating system
- Google is dominant in licensable mobile operating system market
- Existence of foreclosure effect
- Existence of consumer harm (Consumer data)
- No objective justification

**All conditions of tying are satisfied**

# Google Android

## Assessments of the Board about RSA

- Complementary to MADA
- Google search is already default with MADA
- RSA provides financial incentive for Google search to be exclusive
- Market foreclosure

**Strengthens anti-competitive effects of tying**



# Google Android

## Consequences

- Abuse of dominant position: Approximately 13.5 million Euro administrative fine in today's rates

## For the end of infringement and establishment of effective competition;

- Removal of contract terms governing the obligation to privilege the Google search widget on the home screen,
- Removal of contract terms for Google Search and Google Webview to be set as default,
- Removal of contract terms governing the obligation to not to install competing search applications,
- Fulfilling these obligations within 6 months from the notification of the reasoned decision and notifying Turkish Competition Authority.

# Sahibinden.Com

(Decision Date: 01.10.2018,  
Decision Number: 18-36/584-285)

**Online platform which acts as an intermediary between buyers and sellers**

**Real estate, vehicles, spare parts and accessories, construction equipment etc.**

**Web site contains information such as photos and features of the product, user comments and contact information of the seller**

## **Business Model;**

- Buyers do not have to pay any fee
- Sellers have to pay membership fee according to their identities
- Neither sellers nor buyers have to pay any commission to Sahibinden.com for the sales made through the platform

## Relevant Product Markets

- «*online platform service for vehicle sales*»
- «*online platform service for real estate sales/rental services*»

## Relevant Geographic Market

- Turkey

# Sahibinden.Com

## Assessments on Dominance

- Number of visits,
- Number of corporate members,
- Revenue obtained from corporate members,
- Other factors (network effects, first mover advantage, sunk costs, multi-homing costs)
- Domain name of Sahibinden.com
- Wide range of activities

# Sahibinden.Com

## Assessments on Excessive Pricing

- The price that is set highly above the competitive level constantly as a result of exercising market power
- Economic Value Test
- Comparison of Sahibinden's and competitors' pricing behavior and market share for 2014-2017 period
- Comparison of Sahibinden's and online platforms services' return on equity and profitability on net sales for 2014-2017 period
- 2014 - Slightly higher price increases
- 2015 to 2017 – Sharp rise in prices but increase in sales and market share
- Competitors - Not enough competitive pressure to balance excessive price increase
- Entry Barriers – Prevent competitive pressure
- Abusing dominant position through excessive pricing – approximately 1.5 million Euro administrative fine in today's rates

# Sahibinden.Com

The decision of the Board was annulled by 6th Chamber of Ankara Administrative Court on 18.12.2019

## Key points from Court Decision;

- Intervention to excessive pricing should be an exception, instead of intervention elimination of barriers to entry should be a priority,
- Infringement should be proved in a certain way, but TCA did not satisfy sufficient standard of proof,
- TCA did not compare the prices of Sahibinden and global players which operate in different countries
- TCA only considered welfare level of corporate members, did not take into consideration individual consumers.

# Yemek Sepeti

(Decision Date: 09.06.2016

Decision Number: 16-20/347-156)

Online food platform that allows consumers to order food from restaurants

Largest food ordering platform in Turkey

Consumers do not have to pay any fee in contrast to restaurants

## Relevant Product Market

- Online food order-delivery platform services

## Relevant Geographic Market

- Each city where Yemek Sepeti operates (62 cities)
- Turkey

# Yemek Sepeti

## Assessments on Dominance

- Comparison of Yemek Sepeti's and competitors' market share in terms of order quantity, order amount and number of restaurants
- Contracts with chain restaurants (Burger King, McDonalds, KFC etc.)
- Number of consumers who have ordered at least once
- Number of visits
- First mover advantage of Yemek Sepeti



# Yemek Sepeti

## Assessments on MFC Clauses

- Transformation of narrow MFC clauses into wide MFC clauses over time
- Documents obtained during dawn raids
- Few companies are permanent in the market
- Exclusionary effects
- Even if competing platform bears the cost of discount Yemek Sepeti intervenes

## Consequences

- Approximately 60.000 Euro administrative fine in current rates
- Abolishment of wide MFC clauses from contracts

# Passolig

(Decision Date: 12.09.2018,  
Decision Number: 18-31/532-262)

## Related Parties

- **Turkish Football Federation:** Carrying out, organizing and supervising all football activities in Turkey
- **Aktifbank:** Operating in retail banking and investment banking
- **E-KENT/NETAŞ:** Development of the necessary software, infrastructure, turnstiles and camera systems to be installed in the stadiums about the electronic tickets system

# Passolig

## Act No: 6222 The Act on the Prevention of Violence and Disorder in Sports (2011)

- Central sales of the tickets – TFF
- Printing, selling and distribution of the tickets – Football clubs

## Central electronic ticketing system

- **E-KENT/NETAŞ**
  - System integrator of the e-ticket/e-card system
- **Passolig**
  - Electronic card which include name, surname, ID number and photo of the audiences
- **AKTİFBANK**
  - Sponsor of the system
  - Intermediary for printing and distribution of Passolig (*debit card, credit card or prepaid card*)
  - Intermediary for the sale of football match tickets
  - 10 seasons

# Passolig

## Relevant Product Markets

- Electronic card used in the sale of football match tickets
- Intermediary services for the sale of football match tickets
- Banking services

## Relevant Geographic Market

- Turkey

# Passolig

## Individual Exemption

- **a)** Ensuring new developments and improvements, or economic or technical development in the production or distribution of goods and in the provision of services,
- **b)** Benefitting the consumer from the abovementioned,
- **c)** Not eliminating competition in a significant part of the relevant market,
- **d)** Not limiting competition more than what is compulsory for achieving the goals set out in sub-paragraphs (a) and (b).

# Passolig

a) Ensuring new developments and improvements, or economic or technical development in the production or distribution of goods and in the provision of services

- Safer presentation of the services
- Violent acts

b) Benefitting the consumer from the abovementioned

- Safe delivery of services will prevent fictive price increase
- Not at the desired level but positive development in the prevention of violence

# Passolig

## c) Not eliminating competition in a significant part of the relevant market

- Tenders were held in a competitive environment
- Football clubs are generally satisfied
- AKTİFBANK is making loss currently, the system will be profitable at the end of 2020
- 10 seasons exclusivity is restrictive but necessary for the return of investment made by AKTİFBANK

# Passolig

d) Not limiting competition more than what is compulsory for achieving the goals set out in paragraphs (a) and (b)

- AKTİFBANK is dominant in both «electronic card used in the sale of football match tickets» and «intermediary services for the sale of football match tickets»
- Operation of the systems by only one company eliminates technical and financial obstacles

***Individual exemption – At the end of 2023-2024 football season***



# Passolig

## Abuse of Dominance

### Claims

- AKTİFBANK is abusing its dominant position through tying Passolig with its credit or debit cards

### Assessments of The Board

- E-card (Passolig) and credit or debit card are separate products
- Consumers can buy e-card without buying credit or debit card (as a prepaid card)
- Market share of AKTİFBANK is %0.36 based on size of assets

**AKTİFBANK did not infringe Turkish Competition Law**

# Biletix

(Decision Date: 05.11.2013,  
Decision Number: 13-61/851-359)

**Controlled by TICKETMASTER**

**Online platform that delivers various event tickets to consumers**

**Meeting point of event organizers and consumers**

**Relevant Product Market**

- Intermediary services for the electronic sale of event tickets through a platform

**Relevant Geographic Market**

- Turkey

# Biletix

**Exclusive contracts signed with event organizers that last more than one year**

**Market power of BİLETİX**

**Brand awareness, relationship with event organizers, market experience and event portfolio**

**Average exclusivity period is 21.6 months**

**Advance payments to event organizers**

**Market foreclosure rate for 2012 is %48**

# Biletix

## Assessments of the Board

- Advance payments enable event organizers to finance significant expenses related to event
- Exclusivity is required for proper functioning
- Presences of other competitors in the market
- Lack of legal and financial entry barriers
- Non-existence of foreclosure effect

**Biletix did not infringe Turkish Competition Law**

**Duration of exclusive agreements - Maximum 2 years**



***Important Cases of Turkish  
Competition Authority About  
Platform Markets***

***Esra KÜÇÜKİKİZ***

***Phone: +90 312 291 43 71***

***E-mail: [ekucukikiz@rekabet.gov.tr](mailto:ekucukikiz@rekabet.gov.tr)***