Rows	Title	Abstract
1.	Improving Market Interaction Safe Havens in the Context of Sensitive Data Management and Competition Law Risks	In recent years, businesses have been rapidly integrating data analytics-based information management systems into their decision-making processes at every stage of the production chain, both to gain a competitive advantage in specific areas in highly competitive markets and to alleviate increasing cost pressures and strengthen their operational sustainability by better managing potential areas of activity. Simultaneously, they are increasingly seeking to make market interactions throughout the production chain more efficient and effective within the scope of their capabilities. In this context, the widespread adoption of digitalization and big data is changing the nature of market interactions and expanding the scope of competition law intervention as businesses strive to gain a competitive advantage in these areas of opportunity. Therefore, the question of where to draw the "safe haven" boundaries for data management under competition law, both at the daily operations and strategic decision-making levels, remains a delicate balance for practitioners. Essentially, this study evaluates the use of sensitive data from the perspective of an undertaking. To provide a comprehensive viewpoint, it examines data traffic from a multi-layered perspective within a hypothetical conglomerate structure, considering its subsidiaries and third-party service providers operating in different relevant markets. The use of sensitive data is examined separately at four different levels where market interaction occurs: i. Interaction with the Upstream Market: Building buyer power in purchasing processes and establishing supply relationships for private label products. ii. Mergers and Acquisitions (Interactions with Third Parties Still Involved): Applicable information management during the competition authority assessment process and in fulfilling commitments made during conditional authorization procedures. iii. Data management in light of data obtained from market research companies and intragroup interactions. iv. Interaction with the Sub-Market: Interactions with distributors and end-sale points. In this study, considering both the decisions of the Competition Board and international case law, a structural architecture involving a complex data network and information processing mechanism is first created through a hypothetical example; then, how this structure should be designed and operated to achieve pragmatic business results while remaining within a legally secure framework is discussed. In this context, the scenario of generating more sophisticated predictions by combining data from different sectors is examined by focusing on the Great Wall

		of China, network firewalls, information barriers, and structural and functional decontamination measures commonly applied in competition law. In conclusion, while the synergy derived from data in the circulation systems of enterprises can lead to significant gains in terms of both internal efficiency and consumer welfare, a multi-layered compliance program is necessary to ensure that this synergy does not result in specific harm theories such as exclusion, discrimination, anti-competitive advantage, facilitating coordination, and unfair use of consumer data. This study aims to systematically present the potential assessment criteria of authorities and practical compliance measures that companies can implement by highlighting these risks.
2.	The Effectiveness of the Commitment Mechanism in Competition Law: A Future Harmonization Perspective in Light of Turkish Practice and International Experiences	The commitment mechanism stands out among the quick and flexible resolution tools of competition authorities, and has become an increasingly frequently used procedure, especially in Türkiye after the 2020 reforms. While this tool provides businesses with a way to avoid investigation and fine risks in the short term, it can lead to various foreseen and unforeseen consequences for both companies and authorities in the long term. In Türkiye, numerous cases have been closed through commitment processes to date, with decisions focusing particularly on vertical restrictions and distribution agreements. While there is no reasoned decision yet that directly addresses the imposition of sanctions for non-compliance with commitments, international examples indicate that this possibility is significant and point to the need to evaluate the sustainability of this mechanism. Although commitments offer a more predictable path for businesses compared to investigations and high administrative fines, they can often result in longer-term and more extensive operational restrictions than penalties. Behavioral commitments, in particular, can create significant compliance costs by narrowing companies' flexibility in business decision-making. From the perspective of the Competition Authority, commitments are a practical tool that reduces the caseload and provides quick solutions; however, the weakening of deterrent capacity due to the lack of detected violations and the resulting gaps in case law production point to a serious policy dilemma. As frequently emphasized in international literature (Wils, Mariniello, OECD studies), the increase in commitment decisions can weaken the guiding power of competition law in the long run.

		International comparisons reveal the potential "failure" risks of commitments. The penalty imposed on Microsoft in the EU for non-compliance, the penalty imposed on Google in France in 2024 for breach of commitment, and the political sensitivities in the Gazprom case clearly demonstrate the problems of monitoring and deterrence. In the United Kingdom, the CMA's "snap-back" provisions and intensive trustee oversight are examples of practical tools developed to address these risks. These comparisons shed light on problems that have not yet been observed in Türkiye but may arise in the future. The statement will also focus on post-decision monitoring of commitments. The frequent reliance of authorities on third-party monitoring trustees due to resource constraints, however, and uncertainties regarding the effectiveness and accountability of these actors, constitute one of the mechanism's most critical weaknesses. OECD and EU ex post assessments show that deficiencies in monitoring can lead to commitment failures and recommend strengthening the use of trustees. While the Turkish Commitment Regulation governs reporting and audit procedures, publicly available data on ex post effectiveness measurements is not yet available. In conclusion, this paper aims to present the real and anticipated benefits of the commitment mechanism, as well as its unforeseen risks, particularly for companies, and the post-decision monitoring issues, by comparatively examining the Turkish application with international experiences. Practical lessons for companies, unforeseen risks, and policy recommendations for authorities will be offered, and the design and oversight principles critical to the long-term success of this new instrument will be discussed.
3.	The Essential Element Doctrine in Light of Android Auto and Rare Book Decisions: A shift from 'Mandatory' to 'Odd'? Or just a recalibration?	Many decisions of competition authorities, particularly those involving commitments and specific additional measures within the scope of investigations, have a regulatory effect. Considering that regulation is essentially an indirect tax, it is likely to cause indirect or unintended distortions in the markets where the intervention is applicable, through the manipulation of the functioning of price theory. Within competition law, which intervenes in the economy through microeconomic mechanisms, the doctrine of necessary elements has the potential to create a significant impact in many different and important sectors, depending on the approach adopted in the interventions. Unlike indirect taxes in terms of negatively interfering with the price mechanism, sanctions imposed under the doctrine of necessary elements, which directly interfere with two fundamental characteristics of capitalism – the right to property and the freedom of enterprise and choice – have the potential to dramatically curtail individual investment, entrepreneurship, and innovation incentives. The question of whether market behavior, which involves

		mobilizing individual resources in a long-term perspective to gain a competitive advantage through entrepreneurship, innovation, and numerous complementary market investments, should be evaluated on the basis of fairness, equality, or justice, may also provide an answer to the sustainability of the development mission assigned to the free market mechanism to date. In line with these points, it has long been observed that in relevant cases both in the EU and the US, as well as in Türkiye, the principle of "First, do no harm!" has been followed. Indeed, the classic approach, shaped by the European Court of Justice's Oscar Bronner decision, has accepted the obligation of access only under exceptional circumstances; these limitations have been further concretized, particularly in the context of intellectual property rights and interoperability, by the Magill, IMS Health, and Microsoft cases. In the US, with the exception of Aspen Skiing, the doctrine has become almost ineffective with the Trinko and Linkline decisions. However, recent cases, particularly those emerging in the areas of digitalization and platform economies, may lead to a reinterpretation of this doctrine. The European Commission's Google/Enel (Android Auto) decision has relegated classic Bronner criteria such as "indispensability" and "new product" to the background, placing the risks of access to platform gateways and favoritism in digital ecosystems at the center. In Türkiye, the Competition Board's decision regarding Nadirkitap similarly expanded the doctrine within the context of digital platforms by considering sellers' access to and portability of their own data as a necessary element. Both decisions, unlike the classical infrastructure/bottleneck approach, open up a new field of interpretation based on "de facto dependence" and "data/application access," thus indicating a tendency to loosen the strict criteria of the necessary element doctrine. In fact, by reducing the complementary concepts of static and dynamic competition to a dichotomy, they signal the beginning of a trend that could concretize the risk of making a quick but premature choice between the two. This paper aims to comparatively examine the transformation of the essential elements doctrine from its classical infrastructure-based application to the context of digital platforms and data access, and to predict the potential impact of the possible softening of the criteria strictness of the essential elements doctrine on both authorities and businesses. By examining EU and US practices, as well as examples from Turkey and other relevant countries, it aims to reveal how the reinterpretation of the doctrine could create a global trend and what critical lessons should be learned for companies in terms of implementation and compliance.

4.	National Security Considerations in Merger Control Insights from the EU and Türkiye	The intersection of merger control and national security has emerged as one of the most dynamic and debated areas of economic regulation in recent years. Traditionally, merger control has focused on assessing whether a transaction may harm competition and consumer welfare, weighing potential price effects and efficiency gains. However, rising geopolitical tensions, shifts in global supply chains, and rapid technological change have prompted governments to expand merger reviews to include national security and public-interest considerations. This shift reflects a growing recognition that certain investments, particularly in strategic sectors such as energy, defense, and infrastructure, can affect not only markets but also a nation's sovereignty, resilience, and long-term security. The concept of national security is inherently broad and varies across jurisdictions. Each state defines and enforces it in line with its own political, economic, and strategic priorities. This lack of harmonisation introduces uncertainty for businesses, particularly in cross-border mergers and acquisitions. Transactions that may be routine in one jurisdiction can face intense scrutiny—or even prohibition—in another. The unpredictability of how authorities interpret national security risks raises challenges for investors and companies seeking to navigate an increasingly complex regulatory environment. The European Union (EU) and Türkiye provide a compelling lens through which to examine these developments. The EU, as one of the world's largest economic blocs, has introduced a comprehensive framework that allows Member States to address legitimate interests, including national security, under the EU Merger Regulation and the Foreign Direct Investment (FDI) Screening Regulation. While merger control remains primarily competition-based at the EU level, the interaction with Member States' national-security-driven interventions—illustrated in cases such as E.ON/Endesa—has revealed both the potential and the limits of coordination in cross-border mergers. Türkiye, by contrast, has maintained a predominantly competition-focused merger control regime under Law No. 4054 on the Protection of Competition. National security concerns are not expressly embedded in the merger review process, but sector-specific regulations in areas such as defense and energy suggest an implicit recognition of these priorities. Cases such as Sasa Polyester and Mikes Mikrodalga demonstrate how national security considerations can nevertheless surface in practice. The differences between the EU's more explicit approach and Turkey's competition-centric model underscore the challenges businesses face when operating across jurisdictions with divergent legal frameworks.

		This paper explores the evolving role of national security in merger reviews in the EU and Türkiye by analyzing recent regulatory trends and landmark cases. It highlights the growing overlap between merger control and FDI screening mechanisms, particularly in sectors deemed strategic or sensitive. It also examines the risks of fragmented or conflicting decisions when multiple regulatory regimes apply to the same transaction, emphasizing the need for better coordination to avoid undermining both competition and security objectives. The discussion concludes that the growing prominence of national security in merger control calls for transparent, predictable, and proportionate regulatory measures. While national security is a legitimate and necessary concern, its integration into merger reviews should not unduly hinder legitimate investment or distort competitive markets. Achieving the right balance requires clear definitions, consistent practices, and effective collaboration between competition authorities and security-focused regulators. Drawing on the experiences of the EU and Turkey, this chapter aims to provide insights into how national security considerations are reshaping merger control and what this means for cross-border investment and strategic business planning.
5.	A New Era in Intervention in Intellectual Property Rights Through Competition Law Tools in Light of the Competition Board's Tetra Pak Decision: " *Calm Down and Gently Lay Your Brand Down* "	The modern approach positions competition law and intellectual property law as different legal disciplines that serve the same purpose: the advancement of social welfare in general, and builds its practice on the necessity of striking a balance between the interests protected by these two disciplines. The Competition Board, although sometimes with subsequent amendments as in the Music Professional Associations decision, has examined whether the use of intellectual property rights exceeded the scope granted by the right in many of its decisions, such as those concerning Bilsa, Modanisa, Kitapyurdu, Easynap, and Storytel; however, in every case, it has examined this use within the context of competition law and imposed various sanctions and measures. It is possible to say that this approach, which has been indicated, has undergone a radical change in the Board's reasoning published on October 17, 2025, in the Tetra Pak decision dated August 1, 2024, and numbered 24-32/758-319, and that the decision itself envisages obligations that eliminate the existence of intellectual property rights and may therefore ignite significant debates.

		The aim of this study is to analyze the aforementioned decision within the framework of competition law and to draw conclusions for the future. In this context, a section will first be presented that includes the theoretical basis of the Competition Board's practices intersecting with intellectual property law. Then, the factual circumstances of the Tetra Pak decision will be examined, and reference will be made to the Ankara 2nd Intellectual and Industrial Property Rights Court's decision (dated May 11, 2016, E.2015/378, K. 2016/141) and the Supreme Court's decision regarding registration (11th Civil Chamber, dated March 20, 2018, E. 2016/9259 and K. 2018/2131). Subsequently, the concept of "circumvention of the law," a central element of the decision, will be discussed within the framework of the reasoning provided in the decision; the criteria used in determining which intellectual property rights are ordered to be relinquished on the grounds that they lead to the strengthening of a dominant position will be examined; and the position of this obligation in relation to the principle of protecting the essence of the right will be investigated. Finally, predictions will be presented regarding how this understanding adopted by the Board may shape future practice.
6.	Competition in Cross-Border Payments: Are Big Banks Anti-Competitive?	Cross-border payments remain significantly slower, more costly, and less transparent than domestic transactions despite substantial regulatory and technological reforms. BIS analyzes show that a small group of global correspondent banks continue to intermediate the majority of payment flows, resulting in structural concentration, entrenched network dependencies, and persistent interoperability gaps. The 2023 CPMI monitoring exercise similarly reports only marginal progress in transparency, access, and governance, particularly where domestic payment infrastructures operate in closed silos. Complementary IMF work highlights that the global retrenchment of correspondent banking relationships has further concentrated international flows among fewer institutions, raising barriers to entry and diminishing competitive resilience. These findings suggest that inefficiencies in cross-border payments are not merely operational, but may reflect deeper structural conditions facilitating anti-competitive outcomes. This paper argues that the current architecture of cross-border payments is conducive to the formation and maintenance of collective dominance by large multinational banks. The combination of strong network effects, mandatory reliance on SWIFT messaging standards, high fixed compliance costs (notably in AML/CFT), and the dependence on correspondent accounts yields a closed and difficult-to-contest infrastructure. Such structural

		features systematically deter entry by non-bank payment providers, limit multi-homing possibilities, and allow incumbents to shape access conditions in ways that may distort competition. Methodologically, the paper adopts an integrated law-and-economics approach. First, it conducts a doctrinal analysis of EU and Turkish competition law, focusing on abuse of dominance under Article 102 TFEU and Law No. 4054, the concept of collective dominance as elaborated in **A** irtours, the refusal-to-supply and access jurisprudence following Bronner, IMS Health, and Slovak Telekom, and the essential-facilities doctrine 's applicability to financial infrastructures. Second, it incorporates economic insights from two-sided market theory, network externalities, and platform economics, supported by concentration indicators and structural metrics derived from BIS, IMF, and ECB datasets. The objective is to test whether I. correspondent banking networks, II. SWIFT-dependent messaging infrastructures, and III. Risk-based de-risking practices collectively generate exclusionary effects or discriminatory access conditions that are legally actionable. The paper also evaluates whether recent regulatory interventions; PSD2, PSD3, the SEPA Regulatio the Instant Payments Regulation, and the Digital Markets Act sufficiently address these competition concerns. While PSD2 successfully introduced domestic access-to-account rights, its reach does not extend to the core infrastructures that govern cross-border payments. PSD3 and the proposed Payment Services Regulation improve transparency and consumer protection but stop short of reducing the structural dependence on bank-controlled cross-border rails. Although DMA-style interoperability mandates offer a potential template for regulating critical financial gateways, their applicability to prudentially supervised payment infrastructures remains uncertain without parallel reforms in financial regulation. The central hypothesis advanced is that cross-border payment rails constitute a form of essential collective infrastructure in which banks jointly hold de facto gatekeeping power, even absent individual dominance. The paper

		contends that existing competition-law instruments are capable—if employed with greater assertiveness of addressing discriminatory access, excessive pricing derived from market power, and structural foreclosure that impedes the emergence of fintech competitors. The contribution of the paper lies in providing one of the first systematic, competition-law-focused analyzes of cross-border payments in both Turkish and EU literature. By bridging doctrinal reasoning with payments economics, the study offers a framework for enforcement authorities and policymakers seeking to promote innovation, enhance financial inclusion, and reduce systemic dependence on incumbent financial institutions
7.	The Genesis, Implementation, and Methodological Implications of the Digital Markets Law: The Transition from *Ex Post* Implementation to *Ex Ante* Model	In recent years, the rapid scaling of the digital platform economy for various reasons has weakened the capacity of traditional competition law instruments to intervene in digital markets in a timely and effective manner. Delays, and particularly the limited impact of the measures implemented, as seen in cases such as Google Shopping, Google Android, and Amazon Marketplace in the European Union, have created institutional awareness within the Commission that *ex post intervention is insufficient to prevent persistent market power structures. This has highlighted the need for an ex ante intervention model* that redefines the boundary between competition law and sectoral regulation ; the Digital Markets Act (DMA) is a regulation that addresses these needs and was adopted with exceptional speed in EU history. The DMA identifies actors that concentrate market power above certain thresholds as gatekeepers *, imposing predefined behavioral and structural obligations on* these undertakings regarding the core platform services they provide . The process of identifying gatekeepers, concretized by undertakings such as Google, Apple, Meta, Amazon, Microsoft, and ByteDance, and the separation of core platform service categories such as search engines, social networks, app stores, operating systems, and online advertising, formed the basis of the regulation's architecture. In the first year of implementation, there was intense debate regarding how obligations such as data portability, self-serving favoritism, third-party access, API transparency, and preference screens were met in practice; the first non-compliance investigations launched in March 2024 and subsequent preliminary findings indicating DMA violations highlighted uncertainties and gray areas in compliance processes. DMA compliance workshops conducted by

		platforms also provided important insights into the technical interpretation of the obligations and Commission-undertaking interactions. The emergence of DMA not only created a new model for regulating digital platforms; it also challenged the impact-based approach that had dominated EU competition law for many years. The role of the DMA *(Digital Impact Assessment)* in competition law has also been questioned. In particular, criticisms have been raised regarding the flexibility of obligations, the artificiality of the core platform service categories, and the limited role of economic impact analysis during the drafting of the regulation. These discussions have led to the question becoming visible within the EU as to whether the DMA's reliance on predefined rules of conduct rather than economic analysis weakens the position of the impact-based approach in the digital age. This methodological debate has two potential implications for global competition policy. First, in jurisdictions where the impact-based economic analysis approach is not fully established, is applied only to a limited extent, or where administrative capacity is low , the misinterpretation of *ex ante models such as DMA could lead to the adoption of overly prescriptive and harsh regulations that deviate from economic analysis. Second ,* even in countries that prefer to remain with the ex post approach, global pressure and enforcement incentives regarding digital platforms could lead to a shift in competition law practices towards a more formalistic, behavior-oriented structure, detached from analytical foundations. Thus, the global impact of DMA is not limited to the spread of *the ex ante control model;* it carries the potential to cause a disruption that could reshape *ex post competition law methodology on a global scale.* This paper aims to analyze, within a comprehensive framework, the institutional and legal justifications for the emergence of DMA, the compliance practices observed in its first year of implementation, and two possible methodological trends emerging globally, by addressing the aforementioned issues through concrete examples.
8.	The Competition Board's Precautionary Powers: Limits in Light of Law and Economics	Following the entry into force of the Digital Markets Act (" ***DMA ") in the European Union, undertakings designated as*** *gatekeepers* have been forced to make structural and behavioral changes that profoundly affect both their internal operations and contractual relationships in order to comply with the prohibitions and obligations imposed under the DMA. These are particularly evident in obligations such as opening application distribution channels, liberalizing default settings, establishing data portability infrastructures, and ending *self-preferential* practices. Although the Draft Amendment to the Competition Law in Turkey, which contains provisions parallel to the DMA, has not yet been enacted, recent decisions of the Competition Board show that the flexible structure of the Competition Law is being

		used and similar results are being sought. In fact, considering that the vast majority of the prohibitions in the DMA originate from competition law and have been derived from decisions of various competition authorities in the past, it is not surprising that the Competition Authority addresses the prohibitions and obligations in the DMA within the scope of abuse of dominant position by using the flexibility in Article 6 of the Competition Law. Indeed, a similar trend is observed in different courts. On the other hand, evaluating the prohibitions and obligations in the DMA (Direct Mechanism of Action) within the context of abuse of dominant position does not actually make these prohibitions and obligations a precursor regulation. Therefore, such an application would not produce the same effect as if the Draft Amendment to the Competition Law were to be enacted and directly implemented. Although it may produce similar results in terms of administrative fines, the application of competition law, which by its nature operates *ex post , does not establish a regulatory regime that foresees general and precursor (ex ante*) behavioral changes like the DMA. This is precisely where the temporary, final, and structural measure powers granted to the Competition Board come into play. Thanks to these powers, the Competition Board, after evaluating an action as an abuse of dominant position, can impose certain obligations on undertakings with the aim of establishing a competitive environment in the market, almost like a sector regulator. The penalty for violating these obligations is a daily administrative fine. These powers are granted to the Competition Board within the framework of Article 9 of the Competition Law. In this context, Article 9/4 of the Competition Law regulates the temporary measure mechanism, and Article 9/1 regulates the final and structural measure mechanisms. It appears that the Competition Authority uses these precautionary mechanisms to effectively implement prohibitions and obligations that would have been applied through a preliminary regulation if the Draft Amendment to the Competition Law had been enacted. Such obligations have emerged as temporary or final measures in investigations conducted to date under the Competition Law. On the other hand, unlike the EU and the US, the Competition Board in Türkiye does not have the direct authority to apply structural measures. The law stipulates that the Competition Board should first try behavioral measures, and only exceptionally resort to structural measures if it is determined in a final decision that these measures have failed to alleviate the competitive concern. In Turkish law, whether a measure is structural or behavioral is of serious importance in the context of the Competition Board's authority, unlike other judicial bodies. Indeed, if the measure is structural, the Competition Board will not have the direct authority to apply it. This makes the characterization of the imposed measure extremely important. Some of

		the preliminary prohibitions and obligations included in the DMA have the potential to be structural in nature. Looking at the temporary and final precautionary measures issued by the Competition Board to date, it is seen that various measures have been imposed on undertakings, ranging from data transfer obligations to ceasing to provide an advantage. Following the implementation of the DMA, the companies designated as gatekeepers began making various changes to their business models. For example, Apple allowed alternative app distribution platforms to operate outside the App Store on its iOS smart device operating system, as well as permitting web-based app distribution. Additionally, Apple was required to allow the use of different payment methods besides *in-app purchases* (IAP), began asking iOS users which browser they wanted to use when they first started using the device, and opened up NFC technology to third parties. Another gatekeeper, Google, made design changes to search results to avoid harming the visibility of competing comparison shopping service providers, and was also required to remove some of its products, such as Google Flights. Google also provided users with a consent mechanism for allowing the merging of user data collected across its various products and services. Like Apple, Google allowed alternative distribution platforms and permitted app developers to accept direct payments. Meta, meanwhile, established the technical infrastructure for the integration of third-party messaging applications with products like WhatsApp and Messenger. Meta has also offered consumers ad-free, but paid, options for services like Facebook and Instagram. Meta has built the infrastructure for users to transfer their data. Looking at Microsoft, it has enabled the deletion of Bing and Edge, ensured their compatibility with the Microsoft operating system, and developed APIs for member data transfer for LinkedIn. It is quite possible to give many more examples. In fact, some of the measures introduced in the EU through the DMA (Direct Mechanism of Action) have been implemented in Türkiye by the Competition Board based on the Competition Law. Within this scope, it has also initiated and concluded investigations into the application of some of these measures. However, the main question is whether the preliminary prohibitions and obligations imposed in the EU based on the explicit regulations in the DMA, which include changes to the business models of gatekeepers, can be demanded by the Competition Board in Türkiye based on the Competition Law. The main subject of this Communiqué is to examine to what extent and within what limits the Competition Board in Türkiye can demand the obligations explicitly regulated in the DMA, which change the business model of gatekeepers, through the means of Article 6 violation and Article 9 precautionary measures.

		This Communiqué will primarily assess the nature of the measures applied by the Competition Board, particularly in its decisions exercising its authority for provisional and final measures concerning digital platforms (along with the competitive concerns it claims to address), within the framework of current economic and legal literature. Furthermore, it will evaluate whether and to what extent the business model changes in Digital Markets are accessible and applicable under the Competition Law. Within this framework, the Communiqué will propose a practical framework regarding the legal and economic limits within which the Board can apply interventions in digital markets' business models, and will also include applicable tests that can be used to determine the structural or behavioral nature of the measure.
9.	Data Deletion During On-Site Inspections: The Competition Authority's Approach to the Possibility of Data Restoration	The digitalization of business processes and the significant shift of employee communication towards mobile applications have made data deletion an increasingly frequent problem area in on-site inspections by the Competition Authority. In line with the broad inspection powers granted by Article 15 of Law No. 4054 and the 2020 Digital Data Guidelines, the Authority generally considers any data deletion during an inspection as "obstructing or hindering the on-site inspection" and imposes heavy administrative fines on the businesses involved. This approach has been consistently demonstrated, particularly in the decisions concerning Samsung, Unmaş, İstanbul Gübre, Natura, Altun Gıda, Arzum, ProYem, and N11 during the 2019-2025 period. The Authority considers the possibility of recovering the deleted data through digital forensics, the absence of anti-competitive content, or the deletion stemming from panic or reflexive behavior on the part of the employee as factors that do not alter the legal outcome. Therefore, data deletion is considered an objectively obstructive act, regardless of its content. However, the Balsu decision constituted a limited exception within the established approach. The decision waived administrative fines for the undertaking due to conditions such as the complete recovery of the deleted data by forensic IT experts, verification of integrity through metadata analysis, and the absence of anti-competitive elements in the deleted content. The Board stated in its decision that the general principle remained unchanged, but that a different conclusion could have been reached due to the specific technical characteristics of the case and the fact that the investigation was not actually damaged. This indicates that the Board did not act within a framework of entirely strict liability; however, it kept its scope for flexibility quite narrow. The document argues that the Board's approach to data deletion is based not on the classical understanding of fault, but on a model that can be described as "administrative strict liability." The Board does not evaluate the intent or negligence of the perpetrator; it primarily focuses on the objective relationship between the deletion act and the

		impairment of the investigation. While this approach has structural parallels with the aggravated objective liability and strict liability in the Turkish Code of Obligations, it acquires the character of an independent administrative liability regime specific to competition law. The possibility for the undertaking to be exempted from liability is limited to exceptional cases where it can technically prove that the act did not affect the investigation at all. Within this framework, the document proposes a "cooperative, tiered strict liability model" that does not narrow the Board's authority but aims to increase legal certainty. The model envisages three tiers according to the complete recoverability of the deleted data, the integrity of the metadata, and the degree of cooperation of the undertaking; it systematizes aggravating and mitigating factors. Thus, both the effectiveness of on-site inspections is preserved, and a predictable and proportionate sanctions regime, appropriate to the technical nature of digital data, can be established.
10.	Constitutional Assessment of the Conciliation Procedure: The Right of Access to Justice for Undertakings and EU Practices	The settlement method applied by the Competition Authority is a system where companies admit their violations, benefit from reduced penalties, and the case is quickly closed. While the primary aim of this mechanism is to speed up processes and use resources more efficiently, the situation is somewhat more complex in practice. Because settlement effectively restricts companies' right to go to court, it creates a controversial situation in terms of Article 36 of the Constitution. Even if companies voluntarily admit the violation on paper, they lose their right to sue at the end of the process. This raises the question of whether constitutional rights such as 'access to justice' and 'guarantee of natural justice' are being practically violated. Moreover, considering the high penalties involved, the extent to which companies' consent is truly free is questionable; the fear of avoiding a heavy penalty may be forcing companies into a forced acceptance. Similar debates exist within the European Union. The European Commission's settlement decisions also restrict avenues for appeal and oversight. This study aims to compare Turkish and EU practices, highlighting their similarities and differences. The main objective of this paper is to examine how effective the settlement procedure is in practice and how the constitutional rights of companies burdened by high penalties are affected by this process.
11.	The Effectiveness of Behavioral Commitments in Data Business Mergers	Mergers of data-driven companies in the digital world have far more complex and multifaceted effects than those in traditional markets. Companies possessing massive amounts of data, capable of tracking user behavior in real-time, and transferring power across markets can easily distort competition with these advantages. Therefore, authorities such as the Turkish Competition Authority and the EU Commission have been requesting certain 'behavioral commitments' from companies when approving these mergers in recent years. However, the problem is that monitoring these commitments in the long term is difficult, oversight is arduous, and technology companies change

		their business models so rapidly that the effectiveness of the measures taken often becomes debatable. This paper aims to analyze whether these commitments are truly effective, using both Turkish competition law and international examples. These commitments include data sharing, opening APIs to competitors, prohibiting self-preferentialization, and data portability. Essentially, the goal is to question whether these commitments truly curb market power and how practically verifiable they are. Faced with the concentration of power in digital markets, behavioral commitments serve as a 'temporary brake' rather than a permanent solution. The market is so dynamic that even in the short time between a violation being detected and the commitment being implemented, companies can change their algorithms or data processing methods, rendering the measure ineffective. Three concrete recommendations are proposed for this system to work: (i) Commitments should not be flexible; they should be linked to clear and results-oriented performance targets. (ii) It is not enough for a company to simply say 'I have complied'; this should be regularly tested through technical audit mechanisms. (iii) In markets at critical thresholds, 'structural' solutions such as direct asset sales or data segregation should be considered as the primary option instead of the 'behavioral' commitment method. However, the adequacy of establishing a robust technical infrastructure for this and its ability to keep pace with developments in the digital world should also be questioned.
12.	Evaluation of the Sales Policy Below Supply Price from the Perspective of Unfair Competition and Competition Law	Competition, in its broadest sense, can be defined as the rivalry between undertakings producing the same type of goods and services in the market, within the same period and under specific rules. The existence of effective competition plays a key role in the proper functioning of markets and the ability of undertakings to continue their operations. The guarantee of effective competition can only be ensured by establishing the necessary rules and regulations within the legal framework. In this respect, there is a positive relationship between the legal basis of competition law and the efficient functioning of markets. This properly functioning competitive environment in markets leads to a number of important advantages for all participants. These advantages provided by competition in markets can be explained by subjecting them to a dual distinction from a social and economic perspective. For example, from an economic perspective, competition stands out with advantages such as efficiency and effectiveness in resource allocation in markets, high-quality low-price policies, and the encouragement of technological developments. These economic advantages, from a social perspective, ensure that consumers, small and medium-sized enterprises, and the state obtain significant benefits. As mentioned here, one of the most important advantages of competition, especially for consumers, is that it allows them to obtain the goods or services they need from among many

		alternatives at both high quality and low price. However, low-price policies can sometimes lead to negative consequences for consumers, and sometimes even bring about negative effects that distort competition in the markets. From this perspective, while a low-price policy can be defined as one of the most important benefits of competition, it can also be used as a tool to undermine business ethics and violate competition in the market. For example, some businesses repeatedly apply a subprime pricing policy, determined only for a limited number of products, creating the impression that all their products are undervalued, in order to attract consumers to their businesses and perhaps even encourage them to purchase other products they hadn't planned to sell. Businesses that hold a dominant position in the market, on the other hand, resort to predatory pricing strategies to drive competitors out of the market and reduce the number of competitors. Therefore, these types of low-price practices, which may seem like innocent sales policies in favor of the consumer but can significantly harm competition in the market, should be implemented within certain rules. In the Turkish legal system, regulations under both Article 55/1-(a)6 of the Turkish Commercial Code No. 6102 and Article 6 of the Competition Law No. 4054 are prominent in preventing the anti-competitive effects of sales policies below the supply price in the markets. This study aims to examine in which situations a low-price policy, one of the most important advantages of competition, can also constitute a competition violation, and which legal regulations can be activated in response to such a violation, taking into account the relationship between unfair competition and competition law.
13.	The Evolution of Justifiable Reason and Effectiveness Advocacy in the Digital Market Era: A New Paradigm or the Collapse of Effectiveness Advocacy in EU, US, and Turkish Practices?	The doctrine of justifiable reasoning is one of the oldest and most controversial concepts in competition law. In determining whether a conduct constitutes abuse, the economic and legal justifications that a dominant undertaking can put forward for that conduct play a critical role. Within this framework, justifiable reasoning has been divided into different subheadings such as objective necessity, legitimate commercial interest, and efficiency defenses; it has acquired different functions with the development of competition law; and it has been moved to a new evaluation ground, particularly under the influence of the transformation experienced in digital markets. Since the mid-20th century, EU case law has emphasized that abuse is an “objective concept,” highlighting the importance of effects and the undertaking's position in the market rather than the intent itself. During this period, justifiable reasoning emerged as a defense mechanism in limited areas, such as external conditions disrupting the

		normal functioning of the market, product safety, and physical supply constraints. However, the near inability to successfully invoke justifiable reasoning in EU practice has led to the concept being considered in the literature as a “theoretically recognized but practically ineffective defense.” This situation was not strongly addressed even in the 2008 Guidance published by the Commission, which centered on the economic approach. However, the Intel decisions of the European Court of Justice reaffirmed the economic approach and the obligation to conduct impact analysis as a burden of proof on the Commission; thus, establishing the theoretical legitimacy of the effectiveness defense as a legal rule. However, digitalization, network effects, data-driven market power, and zero marginal costs have fundamentally shaken competition law analysis and shifted the effectiveness defense to a different assessment ground due to unique structural features. In this new ecosystem, legitimate arguments put forward by dominant undertakings, such as 'security', 'compliance', and 'user experience', are no longer subject to the classic consumer benefit test, as seen in the Google Android and Google Shopping decisions, but to the 'less restrictive means' test. This test has significantly raised the bar for the acceptance of the defense. These developments have led the EU to adopt an ex ante approach, aiming to bypass the increased burden of proof stemming from the Commission's Intel/Qualcomm decisions and to respond quickly to digital market dynamics. The Digital Markets Act (DMA) introduced strict prohibitions against large platforms, referred to as "gatekeepers," which bypass the assessment of justification and effectiveness. This represents a fundamental paradigm shift in the application of competition law. In US practice, the erosion of the "consumer welfare standard" and the rise of the Neo-Brandeis movement have directly weakened the business justification test; a significant portion of defenses in large-scale lawsuits against gatekeepers have been rejected. In US literature, the prevailing view is that many of the benefits offered by digital platforms are "a byproduct of structural advantages that systematically distort competition." This approach has led to criticism that the effectiveness defense is no longer truly effective in legitimizing behavior, but rather occupies a theoretical place within the framework of legal arguments. The Turkish approach has also shown a trend parallel to all these international trends. In the decisions regarding Google, Facebook/WhatsApp, Trendyol, and Yemeksepeti in the last five years, the Competition Board's approach to the defense of effectiveness has been quite cautious, and in many cases, even dismissive. In Türkiye, the assessment

		of effectiveness is addressed within an even more limited scope, due to the fact that exclusionary effects in digital markets mainly stem from data-driven market power. This paper centers on the collision between Intel's theoretical imperative and the practical obstacles of digitalization, using an analysis of abuse of dominant position. The study argues that, as a result of this comparative analysis, the efficiency defense has become effectively ineffective in the context of digital markets, and compliance obligations have shifted from a 'defense mechanism' to a 'product design imperative'.
14.	Structuring Competition Compliance Programs at the Corporate Level – Scope, Planning, Implementation and Examples	This study aims to create a guide for companies to establish a holistic competition compliance culture across the organization, in order to mitigate the risks posed by the technical and multifaceted nature of competition law practices. Although Law No. 4054 appears to be based on a concise text, it creates a complex field requiring a combined interpretation of economic analysis, legal assessment, and sector dynamics. Therefore, a company-wide compliance scheme is essential, involving coordinated action from all departments, including sales, marketing, procurement, strategy, field teams, and management, not just the legal department. The main objective of this study is to transform this holistic structure into a corporate competition compliance methodology. The research outlines the scope of competition compliance programs, emphasizing that the program is not merely a transfer of legislation but also an organizational infrastructure that permeates all of the company's operations, establishing standards of conduct and decision-making guidelines. In this context, the study aims to develop a modular competition compliance architecture adaptable to both the complex business models of multinational corporations and the leaner structures of small/medium-sized local companies. Thus, each company will be able to design an effective compliance system considering its own risk profile and organizational dynamics. This research also reveals that the study had a detailed plan that included the following key sections: • Why are Competition Compliance Programs Needed? (Recommendations from the Competition Authority, risk management, a proactive approach, and the creation of a compliance culture throughout the organization) • When is a Competition Adjustment Program Needed? • Competition Compliance Unit Structuring (company internal compliance unit – external consultant comparison, department location and responsibilities, specific considerations for international companies, program continuity and monitoring developments in competition law),

		• Competition Compliance Program Structuring (preliminary analysis, three key elements of the program, principles of effective compliance) • Conclusion and Sample Program Proposal. This comprehensive framework will ensure that the study provides companies with a directly applicable guide, covering both its theoretical foundations and practical application aspects. During the program's planning process, the central role of interdepartmental coordination in the success of the compliance mechanism will be analyzed. Competitive risks arise not only in the legal department but also in pricing strategies, sales campaigns, purchasing decisions, distribution agreements, communication practices, and joint venture activities. Therefore, the research will consider interdepartmental information flow, control points, and responsibility sharing as the core of a corporate compliance culture. Parameters such as the company's market position, potential for dominant position, and sectoral transformations will be integrated with department-based risk maps. The application section will discuss ways to create a lasting awareness and responsiveness culture across the organization through tools such as training modules, internal policy drafts, email and communication guides, "competition compliance ambassadors" for decision-making processes, monitoring and reporting mechanisms, and consultation channels. This study aims to provide practical and applicable solutions by addressing concrete risks that different business units may encounter in their daily operations, with examples. Finally, international best practices and compliance schemes for companies of different sizes will be presented. The aim of the study is to transform competitive compliance from a mere “sanction avoidance” activity into a fundamental component of corporate governance, ethics, and a sustainable business culture. Therefore, the proposed guide is designed as a lean and practical handbook, a dynamic framework that needs to be updated in line with changing legislation and case law.
15.	Competition Authorities' On-Site Inspection Powers: A Comparative Analysis at the Global Level	Most competition authorities have the power to conduct on-site inspections of businesses' premises, usually without a prior court order, in order to eliminate the risk of evidence of competition violations quickly disappearing. This power can be used immediately by authorities if the findings obtained during the preliminary investigation or inquiry phase give rise to sufficient suspicion. While it is an indispensable mechanism for uncovering and proving

		cartels and other competition violations, which are inherently confidential, and is crucial for ensuring the efficiency and speed of administrative procedures, the scope and limits of this power must always be balanced with legal safeguards and judicial review due to potential interferences with the privacy and property rights of undertakings. This investigative model, based on administrative decisions by the authorities and widely applied in the EU and Türkiye, differs fundamentally from systems in some jurisdictions, such as the US, where court permission is required for such investigations. In a recent Constitutional Court (AYM) decision regarding the Competition Authority's power to conduct on-site inspections, this issue was examined on a legal basis, and it was determined that on-site inspections conducted without a court order violated the right to inviolability of the home. The AYM tasked the Grand National Assembly of Turkey (TBMM) with re-evaluating the provision of Law No. 4054 on the Protection of Competition, which grants the Competition Authority the authority to conduct on-site inspections without a court order. However, as of the date of this announcement, the TBMM has not yet made any changes to the law. This paper aims to examine, in light of the relevant national debates, the legal basis, practical applications, and limits of the on-site inspection powers of the Turkish Competition Authority and leading global competition authorities (e.g., the European Commission, the US Department of Justice, the UK CMA, and the German Bundeskartellamt) through a comprehensive and comparative analysis. Method and Scope This study will adopt a qualitative comparative law research method and will be based on competition legislation, guidelines published by authorities, and relevant case law of higher courts (e.g., the European Court of Justice, the European Court of Human Rights). Within this framework, four main axes will be considered: 1. The powers of the Competition Authority and the Constitutional Court's decision will be summarized, and the current state of Turkish competition law will be analyzed.

		2. The on-site inspection powers of competition authorities worldwide, including those in the US, EU, China, and the Gulf States, will be assessed in terms of whether a court order is required for an on-site inspection. 3. Important court decisions addressing the on-site inspection powers of other competition authorities around the world will be examined. 4. Based on global examples, concrete recommendations for implementation in Turkey will be presented. Expected Findings and Original Contribution Our expectation is to demonstrate, with concrete data, that although the authorities' powers are formally similar, there are significant national differences, particularly regarding the requirement for a court order to conduct an on-site inspection. The study's unique contribution lies in providing a comprehensive and up-to-date roadmap for standardizing on-site inspection powers for competition authorities worldwide. This roadmap is expected to be useful and provide guidance for the regulations anticipated to be made in the Turkish Grand National Assembly and for stakeholders in Turkish competition law.
16.	The Competition Board's 'Intellectual DNA': Analysis of the Inter-Decision Citation Network and Case Law Map	Turkish competition law practice is based on a history spanning over a quarter of a century and approximately ten thousand Competition Board decisions accumulated during this period. Academic studies to date have mostly examined specific decisions individually or analyzed them by grouping them according to specific sectors or types of violations. However, each Board decision is part of a living legal organism, drawing on previous precedents and guiding subsequent ones. This study aims to reveal the "intellectual DNA" and case law map of the Competition Board by treating the decisions not as independent data points, but as nodes in a vast network connected by invisible threads. The main objective of this study is to make visible the spread, transformation, and origins of legal doctrine over time by examining the references that the Board's decisions make to each other (internal reference) and to the decisions of the European Union Commission, which serve as the source law (external reference). In this way, it will be possible to trace which legal arguments emerged in which period, how they were adopted, and how they evolved over time.

		For this purpose, a two-stage hybrid methodology supported by technology will be followed. In the first stage, the full texts of nearly ten thousand decisions will be scanned using generative artificial intelligence models that have rapidly developed recently. References to other Board decisions and EU Commission decisions in each decision will be identified and converted into structured data. This process will enable the creation of a comprehensive and consistent citation dataset with a relatively low margin of error, which would be extremely difficult to prepare solely by human labor. In the second stage, a network analysis will be performed using the obtained data. In the network graph to be created, each decision will be modeled as a "node," and each reference made will be modeled as a "link" connecting these nodes. Through this visualization and analysis: • Central Decisions: Which decisions are most frequently referenced by others and form the main backbone of case law? • Turning Points: The dates and "groundbreaking" decisions that shifted the legal approach, • Influence of Source Law: This will allow us to identify the periods and topics in which EU Commission decisions have most intensely influenced Turkish case law. Furthermore, by examining clusters based on subtopics or sectors, it will be possible to analyze the extent to which case law in specific areas is based on local dynamics and to what extent it is based on source law. In conclusion, this study will make visible, from a micro-level perspective, the structural patterns in the Competition Board's decision-making practice, the evolution of case law, and the genealogy of legal justifications, starting from micro-level reference relationships and progressing to a macro perspective. Thus, for academics, practitioners, and policymakers alike, an empirical and visual map of case law will be presented, demonstrating "how Turkish competition law thinks and makes decisions."
17.	The Pharmaceutical Industry and Abuse of Dominant Position: New Frontiers	The pharmaceutical industry is subject to extensive sectoral regulations and intellectual property law, which in some cases can create dominant positions by granting exclusive rights in relevant markets. While discussions about the abuse of dominant position in the sector have long been addressed within the framework of various behaviors, new types of behaviors have also come under scrutiny in recent years. These developments are redefining the

		intervention threshold for competition authorities and expanding the boundaries of classical dominant position analysis. Firstly, excessive pricing behavior, which for a long time was assessed only in a limited number of cases, has come to the forefront in many countries after COVID-19. The European Commission's ("Commission") Aspen decision, the decisions of the competition authorities in Spain, Italy and the Netherlands regarding the product called Leadiant, and the UK Competition and Markets Authority's Liothyronine, Hydrocortisone and Pfizer/Flynn decisions are important examples in this area. These decisions reveal current approaches in terms of economic tests and standards of proof regarding excessive pricing, and stand out for the frequent use of communication evidence alongside economic impact analyses. Secondly, the Commission's 2024 decisions in the Vifor and Teva cases are recent rulings that found abuse of dominant position through defamation of competing products, and are therefore significant for other sectors as well. In the Vifor case, allegations were examined that the undertaking attempted to drive its competitor out of the market by making misleading and safety-concerning advertisements about a product that was a competitor to its original product. No penalty was imposed in exchange for the undertaking providing a commitment to conduct a campaign to correct the negative perception of the competing product. This decision is the first in the European Union to find an infringement based solely on the act of defamation. On the other hand, in the Commission's Teva–Copaxone decision, it was determined that Teva systematically conducted defamatory campaigns regarding the safety and effectiveness of competing products, and these actions were deemed exclusionary. Furthermore, it was found that Teva created legal uncertainty by filing similar patent applications and strategically withdrawing them, thus hindering the market entry of generic drugs. The Teva decision marked a turning point at the intersection of intellectual property law and competition law, as it was the first ruling to consider the use of split patent applications as a tool to prevent competition as an abuse of dominant position. This behavior, combined with acts of defamation against a competitor's product, was deemed part of a holistic exclusionary strategy, and the decision emphasized an "objective-based" approach rather than an economic impact analysis. Similarly, the Paris High Court ruled that Sanofi had abused its dominant position by defaming a competitor and causing damage to the national health fund, and ordered it to pay compensation.

		Furthermore, the General Court of the European Union ("General Court"), in the Servier decision, stated that the Commission had made a serious methodological error by defining a molecule alone as the relevant market, and therefore it could not be concluded that Servier was in a dominant position. However, the Court of Justice of the European Union ("CJEU"), in its 2024 decision, largely upheld the Commission's approach to market definition, overturning the General Court's decision on that point. The CJEU stated that, despite the specific structure of the sector, products with the same therapeutic indication can be considered as separate markets where a price change does not lead to a significant shift in sales. In conclusion, our study will comparatively examine the aforementioned decisions in terms of economic tests, standards of proof, objective-based approaches, sectoral regulations, and their potential impact on implementation and other markets. Although there are no infringement decisions related to these types of behavior in Türkiye yet, it is considered that these issues may also come to the fore in our country due to problems with access to medicines and similarities in market structure.
18.	Mergers and Acquisitions Carried Out Without the Permission of Competition Authorities *(Gun Jumping) :* Analysis of Recent Decisions and Examples of Best Practices in the European Union and Turkey	Recently, penalties have been imposed on undertakings for gun jumping (mergers and acquisitions subject to authorization) carried out without the permission of competition authorities, and oversight in this area has increased. The Competition Board ("Board"), the European Commission ("Commission"), and high courts in Europe have issued important recent decisions on this matter. Given the increasing focus of competition authorities and the development of legal mechanisms for the independent examination of acquisitions of "technology undertakings" regardless of turnover thresholds, it has been deemed beneficial to review recent decisions and examples of best practices on this issue. Firstly, in the Altice/Commission case, the European General Court ("General Court") found the Commission's penalty lawful on the grounds that control had been established over the target company prior to closing. The decision determined that the acquirer had appointed the target undertaking's top management prior to closing, interfered with its pricing policies and commercial decisions, and shared sensitive information. On appeal, the European Court of Justice ("ECJ") upheld the General Court's decision, reducing the penalty. In the Illumina/Grail case, the Commission found that Illumina had effectively acquired Grail before the completion of the review process, and therefore imposed a penalty. The decision determined that the necessary documents for closing the transaction had been signed, and that Illumina had gained decision-making power over Grail through various transfers and

		shareholder payments. However, the ECJ annulled the Commission's decision, stating that the Commission lacked the authority to review a transaction below national thresholds and that the power to change these thresholds belonged solely to the legislative body. On the Turkish front, three recent decisions of the Board stated that three separate acquisitions carried out by MTG, operating in the video game sector, were subject to Board approval because the acquired undertakings were considered "technology undertakings." In this context, administrative fines were imposed on the grounds that the closing of these transactions took place before the regulation concerning technology undertakings came into effect. In the Param/Kartek decision, the Board determined that Param had gained de facto control over Kartek without Board approval and imposed an administrative fine. The investigation revealed that Param appointed Kartek's managers, had the final say in salary and promotion decisions, and interfered in marketing and daily management operations. In the Elon Musk/Twitter decision, the Board imposed a penalty because Elon Musk acquired sole control of Twitter without the Board's permission. Twitter argued that its Turkish turnover did not exceed the thresholds and that the internal assessment regarding the notification requirement for the transaction was conducted before the technology undertaking exception came into effect. However, the Board determined that the acquisition agreement was signed after the regulation concerning technology undertakings was published in the Official Gazette and that the closing of the transaction took place after this change came into effect, thus ruling for a penalty. In the BMW/Daimler/Ford/Porsche/Ionity decision, the Board, while examining the application for permission to acquire certain shares in the Ionity joint venture, determined that the relevant undertakings established this joint venture in 2017 without obtaining Board approval and imposed administrative fines on them. In the Brookfield/JCI decision, the Board determined that this transaction was reported to the Commission approximately nine months before it was reported to the Board, and to the Board five months after the closing, and imposed administrative fines. Furthermore, in a recent announcement by the Competition Authority, it was stated that an administrative fine was imposed in the acquisition of Tekfen shares by the Can Group because the company acted as if Board approval had been obtained even though it had not. Our study will examine the above-mentioned current decisions, some past decisions, and the practices of different countries within a comparative and theoretical framework. In particular, the boundaries of concepts such as "actual

		control" and "sharing sensitive information" in the pre-approval process will be examined, and risky behaviors and contractual provisions will be discussed. Furthermore, protocols that can be signed to avoid the risk of breach, as well as practices such as data rooms and clean teams, will be evaluated within the framework of the guidelines and regulations of various authorities.
19.	The Purpose and Limits of Competition Law: The Question of Whether Current Competition Board Decisions Have "Regulatory Weight" and a Comparison with World Examples	In light of advancements in technology and macroeconomic conditions, it has been observed in recent years that competition authorities, through some of their decisions, have gone beyond traditional intervention tools to guide markets, prioritize industry policies, and impose "regulation-heavy" obligations. In these decisions, competition authorities resort to behavioral and structural tools that go beyond addressing competition concerns and consider different interests, establishing forward-looking rules regarding market functioning. These approaches also raise some questions about the limits and purpose of competition law. The recent Tofaş/Stellantis and Ferrero decisions in our country are striking examples of the convergence of competition and industrial policies. The Tofaş/Stellantis merger was conditionally approved, with the parties making commitments regarding an investment plan and distribution channels. The investigation into Ferrero was terminated after the company submitted commitments such as not purchasing hazelnuts below the intervention price, limiting the annual purchase quantity, and making minimum purchases. Furthermore, after a decline in harvest following the decision against Ferrero, the Competition Board ("the Board") revised the commitments. In these decisions, the Board not only addressed competition issues by using the commitment mechanism but also imposed conditions aimed at broader economic and social benefits such as employment, protection of domestic production, and sectoral stability. Some of the recent Board decisions appear to impose obligations on businesses that are almost "regulatory in nature." For example, as a result of Arçelik's commitment applications, the Board approved sales conditions requiring Arçelik resellers to make a minimum of 85% of their sales through physical channels. Similarly, recently, the Board implemented measures requiring businesses operating in the white meat market to implement updated sales prices as soon as they announce them to their buyers and to end the practice of post-dated price lists. Likewise, in the Board decision regarding Frito Lay, measures such as allocating a certain percentage of space to competing products, determining the number of chip stands that can be placed in sales points, and prohibiting the provision of financial benefits to sales points were implemented. Similar approaches have been applied in other Board decisions

		concerning different sectors, such as those related to digital markets like Trendyol Buybox and Google Advertising, and the Şişecam decision. Recently, many competition authorities have resorted to “regulation-weighted” behavioral and structural measures against the preferential behavior of undertakings holding dominant positions in digital markets. Furthermore, there are examples of the European Commission, the UK Competition and Markets Authority, and other competition authorities employing more interventionist competition law instruments in more traditional sectors outside of digital markets, such as automotive, pharmaceuticals, and finance, for different purposes. Such measures can also be considered in the context of sustainability agreements and the environmental impacts of various agreements and practices. However, it is considered that the measures recently applied by the Board in traditional markets may have gone beyond other examples in the world in terms of "interventionism" and "regulation-heavy", and that the line between competition policy and industrial policy may have become blurred in our country. Furthermore, the frequent use of such measures creates problems in terms of monitoring whether undertakings comply with the imposed obligations. In light of these issues, it is thought that it would be beneficial to address these matters within the scope of competition law and the application of Law No. 4054 on the Protection of Competition, the purpose of competition law, and the concept of "social welfare". In this context, the communiqué will present the normative framework regarding the purpose of competition law and the limits of competition law intervention tools within the framework of legal and economic perspectives, and the Board's current practice will be examined comparatively with the decisions and regulations of other competition authorities in the world and in Europe. The question of whether the Board's practices surpass other examples in the world in terms of "interventionism" and "regulation-oriented" will be explored.
20.	Recent Litigations in Japan's Healthcare Sector under Competition Law Perspective	The Japanese healthcare industry expected to reach USD 287.50 billion by 2033 with an anticipated growth rate of 3.51% between 2025 and 2033, has experienced significant growth. However, the healthcare sector has been placed under the spotlight not only because of this promising expansion but also due to recent notable litigation. On May 27, 2025, the Judgment in Toray Industries, Inc. v Sawai Group and Fuso Pharmaceutical's Case, ordering the defendant to pay over JPY 20 billion in damages to the plaintiff, represents a landmark in Japanese litigation. This decision

		stands as the largest award ever made in the interplay between patent and antitrust regulation in Japanese legal history. The competition in this sector continues to spark disputes surrounding antitrust issues between pharmaceutical companies, including Regeneron Pharmaceuticals, Inc. and Samsung Bioepis Co., Ltd., and between Samsung Bioepis Co., Ltd. and Bayer HealthCare LLC. The unprecedented monetary judgment, along with a series of legal cases, has highlighted intensifying competition and could foreshadow a rise in both the frequency and complexity of high-stakes disputes in the healthcare sector. While prior research has explored aspects of pharmaceutical law and competition law, the review of the legislation and enforcement mechanisms of competition regulation in Japan's healthcare sector, with regard to the implications of recent moves, is absent from existing legal discourse. This research aims to address this deficiency by providing a comprehensive examination of the legal framework governing competition in Japan's life sciences industry. Furthermore, by analyzing the latest litigation through a competition law lens, the research will discuss and clarify the current state of the legislative and judicial framework. Based on this review, the paper will provide insights into the future outlook for the regulatory movements in this critical sector. Through this approach, the study seeks to answer two research questions: 1. What are the implications of recent litigations in Japan's healthcare sector from a competition law perspective? and 2. Is the existing competition regulation and enforcement effectively and adequately regulating the healthcare sector in Japan? By providing a clear and insightful answer to such questions, the researcher is expected to shed light on the effectiveness of current regulations and anticipate future trends shaping the competitive environment in Japan's medical sector, one of the major markets with a broad impact on the global healthcare landscape.
21.	An Evaluation of the Competition Authority's On-Site Inspection Power from a Fundamental Rights Perspective	The Competition Authority's power of on-site inspection has been a subject of debate in the field of "competition law" since its inception. The issue has been addressed in various academic studies and has been evaluated from different perspectives in Applied Competition Law Seminars. However, there is a pressing need to comprehensively examine this power of on-site inspection—which constitutes an interference with many fundamental rights and freedoms—from the perspective of the fundamental rights and freedoms regime, and to offer solutions to the problematic issues. The authority to conduct on-site inspections, which is indispensable for gathering evidence to uncover competition violations and thus protecting economic public order, constitutes an interference with many fundamental rights and freedoms of the undertakings and their employees. Firstly, as the Constitutional Court also determined in its June

		2023 decision regarding Ford Otomotiv, Article 15 of Law No. 4054, which regulates the authority for on-site inspections, is not in accordance with the constitutional guarantee of a judge's decision regarding the right to inviolability of the home. Furthermore, the Constitution provides for a judge's decision guarantee not only for the right to inviolability of the home but also for certain interferences with the rights to privacy and confidentiality of communication. Considering that, within the scope of on-site inspections, Competition Authority experts examine email accounts, WhatsApp messages, and even the personal devices of undertaking employees, it is necessary to discuss various safeguards to ensure proportionality, primarily the constitutional guarantee of a judge's decision, to encompass all these issues. The power of on-site inspection, which constitutes an interference with various categories of the right to respect for private life, also needs to be considered in terms of the right to a fair trial. As is known, the ECHR interprets the terms "criminal accusation" or "being charged with a crime" in Article 6, paragraph 2, of the ECHR, which regulates the right to a fair trial, autonomously. Accordingly, penalties imposed by competition authorities – although administrative sanctions – can be considered criminal offenses due to their high severity and the resulting degree of defamation of the offender. Therefore, the power of on-site inspection should be reconsidered in light of numerous principles and safeguards, such as the obligation to inform about the accusation, the right to remain silent, attorney-client confidentiality, and the right to legal representation. In addition, administrative fines constitute interference with property rights. Accordingly, it is necessary to examine both the procedural penalties related to on-site inspections in terms of the principle of proportionality, and the administrative fines imposed based on evidence obtained from unlawful on-site inspections in terms of the procedural safeguards of property rights. Furthermore, during on-site inspections, certain employees of the enterprise may be asked not to leave the premises without notice or to return to the enterprise as soon as possible. These requests can be considered an interference with the right to personal liberty and security and/or freedom of movement. Finally, if it is accepted that the obstructed on-site inspections can be carried out by physical force based on a decision of a magistrate, then the issue of personal inviolability will also come into play. Accordingly, it is believed that the Competition Authority's power to conduct on-site inspections will lead to many more violation decisions. The presentation aims to demonstrate this viewpoint based on decisions of the

		Constitutional Court and the European Court of Human Rights. Furthermore, since many of these violations are thought to stem from legal provisions, a proposed amendment to the law will be shared at the end of the presentation for discussion.
22.	A Structural Crisis in the Digital World: The "Attention Economy" from a Competition Law Perspective	The “attention economy” is a socioeconomic order where interaction between individual users is sought on a mass scale and this interaction is the primary value element. Beyond the production of goods and services that drive economic exchange, this order involves the commercialization of human labor, activity, relationships, and emotions. While this exchange of attention is not a new phenomenon, digital transformation offers those who trade in attention more tools to influence user behavior. Therefore, today's attention economy is a reorganized economy around digital platforms that seek to capture people's attention in order to digitize and commercialize 'value-creating human activities'. In digital marketplaces, attention is no longer just a human ability; it is an economic resource, a commodity, and a currency. In the attention economy, some tech giants have reached unprecedented levels of power by commercializing users' attention as a commodity. In other words, the attention economy is characterized by a power asymmetry where a handful of enterprises control almost entirely an 'architecture through which information circulates'. This monopolization of attention creates risks to competition beyond distorting consumer preferences. The main argument is that the primary harm caused by the attention economy is to user autonomy, and that simply increasing competition will not solve this fundamental problem, and may even exacerbate the damage. This structural crisis will be examined in three parts: the design of attention monopolies, the relationship of this structure to competition law, and finally, the regulations introduced to limit platform dominance. that businesses achieve their dominant positions not solely through superior innovation or high-quality products, but through behavioral rent—that is, by manipulating user behavior, suppressing competing businesses, and controlling visibility and the time consumers allocate. This is achieved through business models in the attention economy known as "dark patterns," which include deceptive interfaces, behavioral algorithms, and the use of third-party data. Google's position as the most used search engine is not solely due to its superiority, but also because it pays billions of dollars to device manufacturers to be the default service; similarly, consumers' inability to unsubscribe from Meta's various platforms, not because they cannot transfer their data, but because they fear losing

		their 'social lives,' are examples of dark patterns. This business model demonstrates that the focus of businesses is on manipulating users. This is an example of a monopolist using its market position to maintain its power rather than improving its service. Therefore, market concentration stems from a structural crisis rather than an evolution where the digital world has lost its competitiveness. Currently, this is addressed through tools such as regulatory measures, behavioral bans, platform neutrality, or the prevention of killer buys. However, the attention economy crisis is structural, not enterprise-based (gatekeepers). Market players, whoever they may be, will manipulate consumers for behavioral rent. Simply increasing competition will not be enough; increased competition for attention will encourage enterprises to develop new methods to manipulate users even more effectively. Therefore, the ultimate solution is to focus on "user autonomy" while imposing ex-ante restrictions on the behavior of technology companies. Otherwise, users will be forced to choose between competing platforms that essentially have the same designs, which is not a real solution. Indeed, the attention economy crisis existing in the digital world has already begun to enslave people's lives. In conclusion, proactive regulation plays a crucial role in limiting the power of tech giants. However, the focus should be on increasing competition among businesses while protecting individual autonomy against the exploitative logic of digital marketplaces.
23.	Approaches to Determining the Relevant Product Market in the Pharmaceutical Industry: ATC, Active Ingredient, and Demand-Oriented Perspectives	The pharmaceutical industry is a strategic sector with significant economic and social impacts on social security institutions, healthcare systems, and public budgets. Therefore, evaluating the sector within the framework of competition law is critical not only for ensuring market efficiency but also for access to healthcare, price formation, and the sustainability of innovation. The sector's unique characteristics—state-determined pricing mechanisms, reimbursement systems, physician-led demand, and originator-generic product relationships—make defining the relevant product market challenging. In competition law practice, market definition is often based on ATC-3 or ATC-4 classifications. However, factors such as the therapeutic substitution potential of products, differences in active ingredients, the distinction between prescription and over-the-counter medications, and the impact of reimbursement coverage on demand mean that these classifications are not always sufficiently explanatory. Studies in the literature evaluating the effectiveness of HMT/SSNIP (Hypothetical Monopolist Test) and elasticity-based analyses show that classical tests have limited applicability in the pharmaceutical sector due to structurally low demand elasticity and strict price

		regulations. The decisions of the European Commission and national competition authorities exhibit a case-by-case approach, varying between ATC-based market definitions and narrowly molecular-based definitions. A significant source of difficulty in defining the relevant product market is that demand for pharmaceuticals arises from a multi-actor decision-making process. The tripartite structure—the prescribing physician, the social security institution covering the cost, and the patient using the drug—leads to a demand-side analysis that differs from traditional competitive analysis. This necessitates considering clinical equivalence, prescribing behaviors, the scope of reimbursement lists, and generic drug practices in market definition. This study presents a conceptual framework for integrating these factors into the analysis. In the final stage, methodological and practical recommendations regarding market definition within the framework of Türkiye's specific sector dynamics will be evaluated. Considering the reference price system, the Social Security Institution's reimbursement conditions, the speed of generic market entry, and the impact of physician prescribing behavior on competition, the study will discuss in which situations the ATC approach and in which situations narrower definitions at the active ingredient level are more appropriate. The study aims to develop a holistic, multi-dimensional, and policy-contributing methodology for defining pharmaceutical product markets in Türkiye.
24.	To Merger or not to Merger in the AI Ecosystem? An Empirical Case Study: The Partnership of Microsoft and OpenAI	There is an undeniable tension between traditional merger control rules and artificial intelligence partnerships, which should be examined carefully in respect of the economic realities. The merger control regimes are struggling to catch the economic realities of dependency, influence and ecosystem integration in AI market. This is mainly because merger control rules put material influence such as ownership, voting rights, and board seats into center for examination, whereas AI partnerships are structured through minority investments, long-term and exclusive cloud dependencies, licensing agreements, talent transfers, and deep technical integration, which is likely to produce merger-like effects even without transferring ownership, or decisive voting rights, or proposing board majority. Therefore, an increasing number of such structures pose challenges to competition law by reducing future competition, depriving their rivals of accessing to essential inputs, and strengthening their dominance in adjacent downstream markets even without explicit exclusionary intent. No one's aim is to hinder innovation, nor to block technological advancements with competition law rules. However, merger control rules should closely monitor these structures in the AI ecosystem and adopt an analytical approach that takes its backward-looking and price-centric analysis toward effects-based framework.

		Treating incentives, incentives as weak unless it equals control is not enough to protect potential competition. Instead, a dynamic and innovation-driven understanding of merger rules is vitally significant for the whole AI ecosystem. Merger control rules should be applied in such a way that they assess ability, incentives, and long-term competitive effects of AI partnerships to preserve legal certainty while also safeguarding innovation. After providing fact-based information about the Microsoft and OpenAI partnership, this research argues that partnership between Microsoft and OpenAI has shifted the debate from whether one company "controls" another to what systemic effects these integrations have on competition in the market. As a focal case, it has shown us that without having formal control, dominant firms may reinforce their market power through influence, dependency, integration rather than getting merged. The intervention of the existing merger control tool could be too late, or not at all to understand substantial economic and strategic interdependence with the absence of formal control. It would certainly not be accurate to say that AI partnerships are inherently anticompetitive; Yet there is a clear need for evaluation of ability, incentives, and competitive effects-based approach, enabling competition law to separate pro-competitive collaboration from de facto structural consolidation. Otherwise, incentives and market dynamics may continue to be shaped by AI partnerships silently.
25.	Constitutional Compliance of the Competition Board's New Penalty Regulation Regarding Administrative Fines: An Evaluation within the Framework of the Rule of Law Principle	of the Law No. 4054 on the Protection of Competition (" **the Law "), undertakings that violate the Law in substance are subject to an administrative fine of up to 10% of their turnover. The last paragraph of the article stipulates that the Competition Board (" the Board ") shall determine** the matters to be taken into consideration in determining the administrative fine through regulations it will issue. In this context, the Regulation on Fines to be Imposed in Cases of Restrictive Agreements, Concerted Actions and Decisions and Abuse of Dominant Position (" **Old Regulation** ") was published and entered into force by the Board in 2009; this regulation was applied until the new regulation, adopted with the same name on 27.12.2024, entered into force (" **New Penalty Regulation** "). The old regulation stipulated a distinction between types of violations. It differentiated between " *cartel and other violations* ," setting initial penalty rates of 2-4% for cartels and 5-3% for other violations, with upper and lower limits established for the application of mitigating or aggravating circumstances. These regulations have been subject to

		intense criticism in legal doctrine and practice due to the definition of a new type of violation (cartel) not included in the law, and the introduction of lower-level sanctions for this type of violation that are also absent from the law.[1] The provisions of the old Regulation were challenged in the Council of State on the grounds that they violated the principles of legal predictability and legality. The Council of State, in its decision, [2]found the relevant provisions of the old Regulation to be lawful. In its reasoning, the Council of State stated that the old Regulation did not create a new offense; rather, it introduced limitations and classifications regarding the misdemeanors regulated in Article 16 of the Law. It is highly probable that the administrative fines to be applied for competition violations will increase with the new Penal Regulation. However, the main significance of this regulation lies in the considerable expansion of the Board's discretionary power in the penalty determination process. This indicates that the Board has entered a new era in its penalty policy, and it necessitates an assessment of the impact of this approach, established through secondary regulation, on fundamental rights and freedoms guaranteed in the Constitution of the Republic of Turkey, particularly in terms of administrative fines. This statement will examine the compatibility of the approach adopted in the New Penal Code for determining administrative fines to be applied to competition violations with the constitutional framework. In this context, considering that administrative fines are of a punitive nature, the consequences of the broad discretionary power granted to the Board in imposing penalties will be discussed in terms of the principles of legality, legal certainty, and predictability. The statement will also address the extent to which the New Penal Code is subject to judicial review within the framework of constitutional guarantees and the minimum standards that should be expected from such review; in this context, the criteria and guarantees developed in the case law of the European Court of Human Rights will also be included in the evaluation.
26.	Platform Control and Network Effects in Multi-Side Markets in Enforcing Competition Law	The nature of digital platforms creates a multi-sided market. This position raises normative and practical challenges in the enforcement of competition law. This study aims to describe the adaptation of Indonesian competition law in facing challenges in the digital era. This study uses normative juridical research with a focus on the study of decisions

[1]Korkmaz, G. (2022). II. Young Lawyer Researchers Symposium 2021. In E. Göka & U. Orhan & HC Aksoy (Eds.), Evaluation of Fines Imposed by the Competition Authority from the Perspective of the Principle of Legality (pp. 249-276). On İki Levha Publishing. Competition Board's Decision No. 13-13/198-100 dated 08.03.2013 concerning 12 Banks, Dissenting Opinion of Board Member Reşit Gürpınar.

[2]Council of State, 13th Chamber, Case No. 2015/3353, Decision No. 2019/4244, Date: 11.12.2019. See also: https://www.lexpera.com.tr/ictihat/danistay/13-de-2018-1706-k-2020-2549-t-13-10-2020 . (Last accessed: 17.12.2025)

	(Study of Business Competition Supervisory Commission Decisions (KPPU) of the Republic of Indonesia)	of the Business Competition Supervisory Commission (KPPU) related to the digital sector. Data were analyzed qualitatively through mapping legal arguments, market facts revealed in the decisions and comparing market analysis principles with the characteristics of the digital economy. The results of the study indicate the complexity in the application of competition law in the digital era. In the KPPU decision Case Number: 03/KPPU-I/2024: KPPU Versus Google LLC, it shows that the conditions for a multi-sided market are not only the existence of two or more markets and users that are interconnected and dependent, but also the platform's control over prices and transaction terms charged to user groups. In addition, the network effect factor where users assess a product has higher added value when the product or its substitute is used by many other users. Therefore, analyzing relevant markets in the digital economy era must be based on a demand substitution analysis, taking into account platform functions, business models, user groups, and the presence of online sellers and offline transactions. Meanwhile, a supply substitution analysis can be conducted by considering market entry barriers, technical barriers, network effects, lock-in effects, and switching costs. This study recommends strengthening guidelines that can integrate multifaceted aspects, platform control, and network effects. This research requires more specific regulations regarding relevant market boundaries and an increase in the technical capacity of researchers.
27.	An Evaluation of Benchmarking Practices in the Pharmaceutical Industry Labor Market from the Perspective of Competition Law and the Decisions of the Competition Authority.	The pharmaceutical industry often delivers its high value-added products to end consumers or large buyers such as the Social Security Institution through intensive R&D, high-quality production processes, and effective marketing activities. It is evident that these processes have economic, legal, and strategic importance. Companies may opt for benchmarking practices to ensure the efficient use and continuity of their workforce investments, which constitute a significant portion of these investments, and to avoid falling behind in the competitive landscape. However, competition law aims to protect competition among market actors and increase consumer welfare. In this context, the sharing of sensitive information regarding wages, benefits, cumulative annual income, and employment conditions can be achieved through a direct or indirect cooperation mechanism among employers. The pharmaceutical sector, which is heavily monitored by the Competition Authority, faces various sanctions. The Authority also monitors the sharing of sensitive information and data exchange in the labor market, and has recently implemented punitive measures. In this study, I will examine the position of benchmarking practices in the pharmaceutical industry's labor market from a competition law perspective, analyze exemplary decisions of the Competition Authority in our country, and

		discuss the approaches of actors in the international arena. My aim with this study is to assist both companies operating in the pharmaceutical sector and legal practitioners in making strategic decisions.
28.	The Rising Role of Structural Measures in Competition Law	Competition authorities are increasingly adopting a proactive interventionist approach to address power imbalances in markets and to permanently protect conditions of effective competition. Legislative changes and increased authority actions in this direction have made structural measures an increasingly central tool for ending competition violations and preventing future competition risks. This Declaration aims to examine the structural measures regime comparatively within the framework of Turkish competition law and European Union ("EU") law. Behavioral measures aim to protect the competitive process without altering the market structure by subjecting the future business activities of undertakings to certain obligations. However, the need for continuous monitoring, dependence on the compliance of undertakings, and their inability to provide permanent solutions, especially in concentrated or digital markets, limit their effectiveness in practice. In contrast, structural measures can re-establish competitive market conditions by envisaging direct and permanent changes in the structure of undertakings without the need for continuous monitoring; in this respect, they stand out as a more powerful intervention tool, especially in complex markets. In Turkish competition law, Law No. 7246 amended Article 9/1 of Law No. 4054, granting the Competition Board ("the Board") the authority to implement structural measures, including the transfer of undertakings, primarily if behavioral measures have proven ineffective. This provides a positive legal basis for structural measures while adopting a phased model that prioritizes the application of structural measures over behavioral measures; this phased approach differs from the source EU law, which subjects the application of structural measures to more restrictive conditions. In this respect, Turkish law adopts a more phased model that prioritizes the application of structural measures over behavioral measures, thus distinguishing itself from the source EU law. While structural measures have been used relatively sparingly in EU practice in the past, it can be said that interventions with a de facto structural impact have become more visible, especially recently. The obligations imposed in the Google Shopping decision highlighted the need for a functional separation between platform services and downstream market activities, revealing the limitations of purely behavioral measures; this trend was further reinforced by the Google AdTech investigation. Regarding structural measures, the ARA Foreclosure decision is significant because it demonstrates how a transfer obligation of a structural nature, despite interfering with property

		rights, can be justified through a detailed and rigorous assessment within the framework of the principles of necessity and proportionality. In Türkiye, structural measures are again seen in limited numbers in practice. In this context, the OYSA decision is noteworthy for referring to structural measures even during a period when there was no explicit regulation in the legislation. However, the widespread use of the commitment mechanism has made the discussion of structural measures more important in practice, as commitments can be transformed into binding and automatically enforceable measures in case of violation. Nevertheless, it is observed that the framework regarding the criteria and level of justification for the application of structural measures in Turkish competition law practice is not as detailed and systematic as in EU competition law practice. However, the fact that a lasting effect in preventing competition violations has not been achieved despite the behavioral measures applied after the Piliç Eti and Frito Lay decisions, and the repeated administrative fines imposed on the same undertakings, especially in the retail sector, shows that structural measures, which directly affect the market structure, will play a decisive and shaping role in the future competitive structure of the relevant markets. Structural measures, which have become an important intervention tool in both Turkish and EU law, can directly affect fundamental rights, particularly the right to property. Therefore, instead of avoiding structural measures in principle, it is believed that these measures should be applied within the framework of the principles of necessity and proportionality, based on clear and predictable legal criteria. In EU law, this area has largely been shaped by Commission practice, with the ARA Foreclosure decision establishing important criteria; however, a similar consistent and systematic approach has not yet developed in Turkish competition law. This paper aims to contribute to addressing this deficiency by comparatively examining the legal framework of structural measures.
29.	Joint Ventures in the Context of the Prohibition of Agreements Restricting Competition	The increasing complexity of the global economy is driving businesses more than ever to collaborate with competitors in order to achieve economies of scale, share costs and risks, and adapt to technological transformation. In this context, joint ventures *present* a complex analytical process for authorities, navigating the fine line between their potential for efficiency and the risk of cartelization. This paper aims to address the assessment of joint ventures under the prohibition of anti-competitive agreements from a comparative law perspective and to examine the legal status of new generation collaboration models emerging between 2020 and 2025.

		The main focus of this paper is to demonstrate that, despite differences in methodological approaches, different legal systems converge significantly at the level of economic analysis. In Turkish competition law and European Union (EU) practice, joint ventures are generally considered under Article 4 of Law No. 4054 or Article 101 of the TFEU, with suspicion of an anti-competitive agreement; subsequently, they are subject to exemption assessment within the framework of efficiency, objective necessity, and consumer welfare tests. In contrast, US antitrust law, with its *rule of reason* analysis shaped by case law, particularly the Dagher case, offers a more flexible framework focusing on the net impact of collaborations on the overall competitive dynamics of the market, but its outcomes are uncertain depending on litigation processes. This paper will show how these two approaches evolve into similar results in practice, particularly in non-full-function partnerships. This analysis examines, with concrete examples, how market structures in different sectors affect legal assessment. In the container shipping sector, the competition law status of global alliances arising from high fixed costs and pressures for economies of scale will be investigated; the uncertainty surrounding the recently repealed Consortium Group Exemption Regulation (CBER) in the EU will be compared with the role of individual exemption mechanisms for similar structures in Türkiye. In the aviation sector, fully integrated partnerships, going beyond airline alliances and including revenue, capacity, and risk sharing, will be evaluated through the lens of the US Antitrust Immunity regime and the EU Commission's conditional authorization mechanisms based on structural commitments, such as slot allocation. Furthermore, acceptable limits for collaborations arising from technical necessities in construction projects and public tenders will be discussed. The innovative contribution of this paper lies in its examination of the transformative nature of classical competition law analysis in the face of three key megatrends of the last five years. First, it will address how sustainability collaborations, driven by the Green Deal and ESG goals, necessitate multi-layered benefit measurement models that transcend the traditional concept of consumer welfare. Second, it will evaluate the intra-ecosystem competition problems created by strategic partnerships established by digital platforms for data sharing, algorithmic compatibility, and common standard development. Third, it will analyze how mandatory collaborations and “crisis cartels” practices, which arose due to post-COVID-19 supply chain vulnerabilities, have temporarily eased the strictness of competition authorities.

		In conclusion, the Declaration will demonstrate that while the legal approach to joint ventures varies across different systems, the fundamental balance lies between economic efficiency and the potential for abuse of market power. However, new parameters such as sustainability, digitalization, and times of crisis are reshaping this equation and compelling competition lawyers to develop more holistic and next-generation analytical methods that also encompass non-price effects.
30.	A Comparative Analysis of the Recognition and Sanctioning Effects of Competition Compliance Programmes by Competition Authorities in Türkiye and Around the World	Both in Turkey and globally, competition compliance programs are finding wider application as a result of deterrent decisions by authorities. Competition authorities also encourage undertakings to implement competition compliance programs in different ways and measures; however, how these programs are recognized and whether they can be considered as a mitigating factor in determining administrative fines differ according to the policy approaches of the competition authorities. The main purpose of this paper is to comparatively examine the policy approaches in various legal systems regarding the recognition of competition compliance programs and their impact on sanctions [3]. Although the Competition Authority's 2011 Competition Letter included proposed criteria for competition compliance programs **in Turkey , there is no clear example of these criteria being considered in decisions. Looking at the Authority's jurisprudence, while** some decisions have positively evaluated competition compliance programs as compliance with the law, others have not. The requests for mitigating circumstances from the undertakings running the program were not accepted in the decisions . The paper will also present examples of competition compliance programs implemented by some authorities **around the world . Essentially, it** will divide competition authorities into two categories: those *that "recognize the programs"* and *those that "do not recognize the programs,"* and will also highlight the policy approaches [4]of certain countries . **Authorities that recognize the programs:**

[3]Due to word limitations, references are provided as hyperlinks.
[4] *The examples presented in the announcement will not be limited to those provided.*

		- **In the US, the DOJ**, In its 2019 guidance on compliance programs, it stated that an effective compliance program, if it meets the necessary conditions, can be taken into account in determining the penalty. Numerous criteria are considered in determining whether an effective compliance program is being implemented, including policy content, reporting systems, training, and disciplinary processes. - **The Italian** Competition Authority, in its Guidelines on Competition Compliance, details how a tiered reduction in the penalty for a violation—such as 5%, 10%, or 15%—can be applied, taking into account the effectiveness of the compliance program and whether the violation was reported to the authority before any investigation was opened. - **South Korea ,** which encourages the development of a compliance culture by scoring effective compliance programs according to specific criteria and applying penalty reductions, views competition compliance programs not as post-sanction tools, but as proactive mechanisms that serve to prevent violations. - **Mexican** The Authority appears to be adopting a new approach within the competition law reforms of 2025, which will certify compliance programs for three years and take them into account in mitigating penalties **.** **Authorities Unfamiliar with the Programs:** - **The European Commission ,** companies It states that compliance programs are necessary regardless of size, and that an effective compliance program will prevent competition law violations, but also that no reduction in potential penalties can be applied if a violation is detected. - **While the UK and France** [5]previously recognized compliance programs and considered them as mitigating factors in sanctions, they have changed their stance in recent years. They now accept that compliance programs exist to prevent violations from occurring, and that they can only be used in the context of systems such as repentance and commitment, arguing that the alternative would be a method that rewards violations. - **China emphasizes the importance of compliance programs ,** it does not reward them and maintains the view that in case of violations, the compliance program is ineffective and that implementing such programs is the responsibility of the companies themselves.

[5] Publication by the French Competition Authority of a new framework document on competition compliance programs | Insights | Mayer Brown (Access Date 17.12.2025)

		The paper will also address the effects of policy differences on competition advocacy at the end.
31.	Tailoring Article 9 Commitments for AI-Supported Pricing Practices	Rapid advances in artificial intelligence (AI) are increasingly reflected in the pricing strategies of digital markets. AI-enabled systems can facilitate pricing practices, including algorithmic collusion and price signaling, personalized pricing, resale price maintenance through AI, and pricing-hub architectures. Recent scrutiny in digital markets, such as Amazon Buy Box, Tinder, Wish, Sennheiser and Sonova, and litigation including Michelin v Commission illustrates both the diversity of emerging risks and the uncertainty over their appropriate legal characterization under EU competition rules. However, an outright prohibition would be impractical and undesirable from an innovation and welfare perspective because AI-pricing tools are widely used as legitimate business practices that may deliver efficiencies. Ex-ante instruments such as the Digital Markets Act, the Digital Services Act, the Artificial Intelligence Act, and the Consumer Rights Directive can curb certain vectors of harm through transparency, ranking, governance, and compliance obligations. Yet they share a structural limitation: they do not directly and systematically target price outcomes produced by algorithms, nor do they address novel price-centric abuses that fall outside pre-defined rulebooks. This creates a regulatory blind spot where AI's capacity to extract surplus, segment demand, and stabilize parallel pricing. Even where Articles 101 and 102 TFEU could ultimately apply, their infringement-based architecture and evidentiary demands often prevent rapid responses to AI-driven pricing effects. This research argues that Article 9 of Regulation 1/2003, commitment decisions, remains an enforcement modality for AI-supported pricing concerns. Article 9 offers speed, flexibility and a lower litigation burden, enabling intervention before market distortion. It is valuable in digital infrastructures and undertakings outside the DMA's gatekeeper perimeter, novel practices not hard-coded in ex-ante obligations, and pricing-centered abuses where the competitive harm manifests primarily in outcomes rather than easily identifiable exclusionary conduct. Since Article 9 can be adopted without an infringement decision, it allows the Commission to stop AI-supported pricing practices that are not yet clearly categorized, but that may nevertheless undermine market functioning. The Commission's past practice shows that commitments can recalibrate algorithmic designs without a formal finding of infringement, as illustrated by Microsoft Teams, Apple eBooks, Amazon E-books, Amazon Buy Box, Reuters Instrument Codes, Microsoft Internet Explorer, and Tinder. It also shows that commitments can address exploitative price outcomes, as in Aspen.

		However, the Commission's twenty-year report of Regulation 1/2003 highlights effectiveness concerns, notably the partial success of behavioral remedies and the rarity of structural solutions. Therefore, this research proposes a more structural based commitments toolkit, ranging from unwinding pricing-hub structures, disposing of data assets that enable coordinated outcomes, and exiting specific pricing engines, to robust auditability, monitoring, and verifiable constraints on optimization targets. It also contends that clearer and more robust investigatory powers for collecting algorithmic evidence would improve the design and enforceability of Article 9 commitments. The research proceeds by classifying AI-supported pricing practices and examining how ex-ante regulations address them, and where those regimes leave residual enforcement gaps; it then discusses the application of Article 9 to those practices and develops criteria for a greater use of structural remedies, while proposing strengthened investigatory powers to support the effective design, verification, and monitoring of commitments under the Article 9 procedure in digital markets.
32.	Vertical agreements from a legal and economic perspective: An analysis of the formalist approach in EU competition law through internet sales restrictions.	This study examines the discrepancies between legal and economic literature, established doctrine, and practice in the assessment of vertical agreements in EU competition law. Within the economic literature on vertical agreements, pioneering works such as those by Telser (1960), Matthewson and Winter (1984), Comanor and Frech (1985), Rey and Tirole (1986), Aghion and Bolton (1987), Winter (1993), Rey and Vergé (2008), Buettner (2009), Harris (2013), Buccirossi (2015), and O'Brien (2020) demonstrate that vertical constraints, in most cases, create efficiency rather than limit competition, and are less likely to harm consumer welfare, especially in markets with inter-brand competition. Indeed, according to the literature, vertical agreements should be evaluated based on their market effects rather than formal classifications; because seemingly completely different constraints can have similar effects on competition. Furthermore, the dominant economic view argues that measuring consumer welfare solely through intra-brand competition and price levels can be misleading, and that non-price factors should also be considered in competition analysis. In contrast, the framework for vertical agreements in EU competition law appears to have failed to fully internalize these economic lessons, prioritizing intra-brand price competition and still largely assessing certain restrictions based on formalist assumptions.

		This study examines internet sales restrictions as a case study to illustrate this discrepancy. Specifically, by analyzing the Pierre Fabre and Coty judgments and the 2022 Vertical Agreements Group Exemption Regulation and its Guidelines, it demonstrates that the approach to online sales in EU law has historically been shaped around the goal of market integration and the distinction between active and passive sales. However, it highlights that empirical evidence is limited to support the claim that this formalist approach actually promotes market integration; despite strict legal considerations, consumers largely remain within national markets when making online purchases. This raises the question of the extent to which strict treatment of internet sales restrictions is functional in terms of achieving the integration goal. The main argument of this study is that this approach to internet sales restrictions is not an isolated problem, but rather a reflection of a broader formalist trend observed in EU competition law regarding vertical agreements in general. Classifying the effects of vertical agreements through context-independent categories encourages a practice based on legal labels rather than economic analysis, and relegates the assessment of the real effects on competition to the background. In this context, the study discusses the elements upon which a more consistent assessment from a legal and economic perspective should be based, and argues that an approach compatible with economic analysis can strengthen both legal predictability and consumer welfare. Finally, it is argued that this experience observed in EU practice offers important comparative lessons for Turkish competition law, where, although similar normative tools exist, market integration is not a superior norm in competition law; in this context, a strict and formalistic approach to vertical restrictions and internet sales limitations is less defensible for Turkey.
33.	Behavioral Measures in Competition Investigations within the Framework of the Proportionality Principle	conducted by the Competition Board ("Board") into undertakings operating in the poultry sector has resulted in an administrative fine as well as sectoral regulation. Under the Board's *Poultry Meat-III* [6]decision, pursuant to Article 9/1 of Law No. 4054, behavioral measures were imposed requiring undertakings operating as producers/suppliers in the poultry market to (i) implement updated sales prices (price lists) to their buyers, including resellers, from the moment they announce them, and (ii) terminate the practice of post-dated price lists [7]. As a result of the investigation,

[6] https://www.rekabet.gov.tr/tr/Guncel/beyaz-et-sektorunde-faaliyet-gosteren-te-41774c187a9bf01193e40050568549fa
[7] https://www.rekabet.gov.tr/tr/Guncel/beyaz-et-sektorunde-faaliyet-gosteren-te-41774c187a9bf01193e40050568549fa

		the Board determined that various undertakings operating in the poultry sector violated Article 4 of Law No. 4054 by exchanging competitively sensitive information. Similar findings were made in the past by the Board in *Poultry Meat-I* [8]*and Poultry Meat-II* .[9] While similar measures have been implemented in previous decisions, *the White Meat-III* decision marks the first time the Board has introduced behavioral measures covering all undertakings operating as producers/suppliers in the white meat sector – including those not under investigation . The fact that this measure imposes obligations on all undertakings operating in the sector raises questions regarding the principles in Article 9/1 of Law No. 4054 and the limits of the administration's discretionary power. Furthermore , the applicability of such a comprehensive regulation targeting the sector necessitates examination in the context of constitutional principles such as proportionality and moderation. On the other hand, the Board's decision dated 13.02.2025 and numbered 25-06/152-78 regarding *Frito Lay* The decision [10]stipulated comprehensive behavioral measures. It determined that Frito Lay violated Article 4 of Law No. 4054 by applying exclusivity in traditional channel retail outlets in the packaged chips market, and ordered the application of behavioral measures pursuant to Article 9/1 of Law No. 4054, in addition to an administrative fine. The stand restrictions imposed on Frito Lay raise questions regarding the principles of proportionality and necessity under Article 9 of Law No. 4054. The decision imposed a comprehensive stand-sharing obligation on Frito Lay for thousands of third-party retail outlets , stipulating that " *Frito Lay is contractually obligated to take all necessary measures to ensure that the retail outlet complies with the specified requirements . " Since* the stand restrictions impose obligations on Frito Lay regarding the actions of independent third- party retail outlets , they create legal uncertainty in terms of the principle of individual criminal responsibility guaranteed by Article 38 of the Constitution . Considering that conduct contrary to the aforementioned measures is subject to a fixed-term administrative fine under Article 17 of Law No. 4054, the scope and applicability of measures imposing contractual obligations on thousands of sales points should be examined within the context of constitutional principles such as the principle of proportionality and moderation.

[8]decision dated 25.11.2009 and numbered 09-57/1393-362 regarding *White Meat-I*
[9]decision dated 13.03.2019 and numbered 19-12/155-70 regarding *White Meat-II*
[10]Decision No. 25-06/152-78 dated 13.02.2025 regarding *Frito Lay*

		The Board has so far prescribed behavioral measures in many investigative decisions [11], some of which could be explained by fundamental principles such as the prohibition of discrimination in the context of the specific case. For example, in the Board's *Philips* Decision, the allegation that Philips violated Law No. 4054 by failing to provide the applicant with the necessary password and activation for the maintenance and repair of medical imaging devices was examined, and obligations were imposed on undertakings operating in the medical imaging and diagnostics market to refrain from discriminatory practices against competing service providers in the sale of [12]passwords, system access, and spare parts , etc. However, it appears that as of 2025, the Board is adopting a different approach regarding behavioral measures and prescribing more comprehensive obligations [13]. In recent years, the tendency of competition authorities to resort to ex ante regulations in investigations and their virtual assumption of a sector-wide regulatory role necessitates a close analysis of the behavioral measures implemented. The OECD policy document notes that competition authorities struggle to meet the required standard of proof in investigations, and that lowering this standard by adopting new assumptions/presumptions or adopting ex ante regulation methods are being discussed as policy options [14]. While ex ante regulation initially provides the administration with more flexible regulatory options, depending on its scope, it creates uncertainty both in terms of the principle of proportionality and its competitive impact on the market during implementation [15].

[11]The Board's decisions dated 20.02.2025 and numbered 25-07/170-84 regarding *MAÇKOLİK* , 16.02.2017 and numbered 17-07/84-34 regarding *Mey İçki* , and 12.12.2024 and numbered 24-53/1180-509 regarding *Google* , **The Board's** decisions dated 17.08.2023 and numbered 23-39/754-263 *regarding Sahibinden* , 21 January 2021 and numbered 21-04/53-22 regarding *Biletix* , 12.11.2020 and numbered 20-49/675-295 regarding *Google* , and 22.04.2005 and numbered 05-27/317-80 regarding *EFPA/BİMPAŞ.*

[12]Board Decision No. 21-40/589-286 dated 26.08.2021 regarding *Philips* , paragraph 21. See also Board Decision No. 09-07/128-39 dated 18.02.2009. The Board's decision aimed to make the maintenance and repair market, considered a successor market to medical imaging and diagnostic devices, more competitive, to prevent artificial barriers from closing this market to independent service providers, and to stipulate that the obligations imposed on the sector would be binding on all undertakings operating or planning to operate in this market.

[13]*the Unilever decision* dated 18.03.2021 and numbered 21-15/190-80, and the *Coca Cola decisions* dated 10.09.2007 and numbered 07-70/864-327, and 02.09.2021 and numbered 21-41/610-297 , were limited to sales points with a net closed sales area of 100 m2 and below, the *Frito Lay decision* dated 13.02.2025 and numbered 25-06/152-78 stipulates that the display cabinet measures should be applied to sales points with a net closed sales area of less than 200 m2 .

[14]See The Standard and Burden of Proof in Competition Law Cases, Organization for Economic Co-operation and Development ("OECD") Roundtables on Competition Policy Papers, No. 318, (2024), https://www.oecd.org/en/events/2024/12/the-standard-and-burden-of-proof-in-competition-law-cases.html

[15]Bougette, P., Budzinski, O., & Marty, F. (2024). " *Ex-ante versus ex-post in competition law enforcement: Blurred boundaries and economic rationale"* (GREDEG Working Paper No. 2024-18). GREDEG Working Papers Series, Université Côte d'Azur, https://laweconcenter.org/wp-content/uploads/2024/06/GREDEG-WP-2024-18.pdf

		Within the framework of the issues explained above, this study will examine how the Board's approach to behavioral measures has evolved over the years and will analyze the subject in the context of constitutional principles such as the principles of proportionality and moderation.
34.	Are the boundaries becoming clearer during the on-site inspections?	In the Competition Board's ("Board") decisions regarding the obstruction of on-site inspections , it is understood that the Board considers allegations of data deletion as actions aimed at concealing evidence, and that whether the deleted data is restored or whether its content indicates a competition violation does not affect the outcome in sanctions related to obstructing/hindering on-site inspections [16]. This approach is generally adopted by administrative courts as well, and some decisions refer to the [17]*'supervisory obligation'* of undertakings . With this, The fact that Article 16/1(d) of Law No. 4054 does not grant the Board discretionary power in determining the amount of the penalty can lead to the adoption of a mechanical approach in investigations and the risk of excessive penalties . The Board's actions against *Epson* [18]and *Koyuncu Elektronik...*[19] As stated in the Dissenting Opinions regarding the decisions, the Board has exercised its discretion in cases where employees working on files outside the

[16]See the Board's *decision* dated 20.05.2021 and numbered 21-26/327-152 regarding Unmas. The decision, The Board's decision dated 29.04.2021 and numbered 21-24/279-124, *Pacific* decision and Ankara 18th Administrative Court, T. 07/12/2022, E.2022/548, K.2022/2882 *Pasifik* Decision. Board's *N11* decision dated 27.05.2021 and numbered 21-27/354-172 , Board's *Savola Gıda* decision dated 08.07.2021 and numbered 21-34/451-226 , Board's *P&G decision* dated 08.07.2021 and numbered 21-34/452-227. The decision is the Board's decision dated 12.08.2021 and numbered 21-38/544-265 *regarding İGSAŞ* . The Board's decision dated 27.05.2021 and numbered 21-27/354-173 regarding *Çiçek Sepeti , and* the Board's decision dated 17.06.2021 and numbered 21-31/400-202 *regarding Medicana* The *Samsun* decision, the *Teknosa* decision dated 28.04.2023 and numbered 23-19/364-126 , *the AGCO Agriculture* decision dated 18.04.2024 and numbered 24-19/404-161, and the IWALLET *decision* dated 14.08.2025 and numbered 25-31/726-431 are all examples of decisions made by the Board . In these decisions, the deletion of data after the commencement of an on-site investigation is considered a breach of data integrity and therefore an obstruction of the possibility of obtaining information and findings within the scope of the investigation. The Board considers that the fact that the deleted data could be accessed with the help of forensic computing devices does not affect the nature of the act as hindering/difficulting the on-site investigation; accepting the opposite would be tantamount to rewarding the undertakings in a situation where they deleted the data but the deletion could not be detected.

[17]See the Dissenting Opinion to the Competition Board's Decision No. 24-50/1144-493 dated November 28, 2024. In a recent decision, the Ankara 12th Administrative Court linked the "inspection obligation" of undertakings to the principle of prudent business practices, stating that undertakings must exercise due diligence during on-site inspections. According to the decision, the inspection obligation requires undertakings to take necessary precautions from the moment the on-site inspection begins, to inform their employees in a timely manner, and to prevent potential risks of evidence tampering. In the said decision, the court stated that the undertaking did not take measures to prevent evidence tampering during this period, and therefore, the inspection obligation was violated. Consequently, the court ruled that the administrative fine imposed for obstructing the on-site inspection was lawful. The decisions of the Ankara 12th Administrative Court, numbered E:2024/13, K:2024/1724; the Board's decision dated 28.11.2024, numbered 24-50/1144-493 , regarding *Biofarma ;* the decisions of the Ankara 18th Administrative Court, numbered E: 2022/548, K:2022/2882; and the decisions of the Ankara 21st Administrative Court, numbered E:2023/1410, K:2024/182.

[18]Decision No. 23-48/910-324 dated 12.10.2023 regarding *Epson*

[19]Decision No. 23-45/839-295 dated 21.09.2023 regarding *Koyuncu Electronics*

		cartel case deleted data for personal reasons and in a panic, rather than with the intention of concealing evidence. In exercising this discretion, the Board considered the context of the event, whether the data was recovered, and whether the deleted correspondence contained anything that could constitute evidence . Similar criteria can be seen in [20]the Ankara 2nd Administrative Court's decision regarding *Sahibinden* . The impact of this approach is reflected in the Board's recent decisions. In the *Samsung* [21]decision, although it was determined that some employees left Knox Teams groups during the investigation and that these groups were automatically deleted from the devices upon leaving, it was also determined that the correspondence in these groups could be accessed from other employees' devices and that no findings related to the subject of the investigation were found in the correspondence, and it was decided that the on-site investigation was not obstructed [22]. In the *Balsu* [23]decision, it was decided that the on-site investigation was not obstructed, taking into account that the deleted data was recovered, that no evidence of a violation was found in this data, that Balsu was not a party to the relevant investigation, and therefore that there could be no intention or motivation to obstruct/hinder the investigation . In *the Unmaş-II* [24]and *Biofarma decisions* [25]of the Board , the risk of excessive punishment was referred to . It was decided that the investigation [26]was not obstructed because no technical records were found to support the method by which

[20]Decision *No.* 2022/254, dated 15/04/2022 ; *"In the dispute, although the Board's decision, which is the subject of the lawsuit, stated that the data was deleted from the mobile device used by (..) as of the time the inspection started and that this situation resulted in the obstruction or hindrance of the on-site inspection, and therefore decided to punish the plaintiff company with an administrative fine;*

- The plaintiff company informed its employees via *email on the day of the inspection* that they should not delete their records and should provide any requested documents to the officials .
- The correspondence, which was said to have been deleted, was found during examinations of other employees' phones .
- the personal phone of (...) and
- The correspondence that was allegedly deleted did not contain matters related to company business.
- This action does not constitute grounds for an administrative fine.
- Furthermore, there is no concrete information or document to support the claim that the plaintiff committed the aforementioned act.

It is understood that the board decision in question is not in accordance with the law."

[21]The Board's decision regarding *Samsung* , dated 10.04.2025 and numbered 25-14/330-157.

[22] It appears that the institution's experts did not even need to carry out any "retrievance" process in this regard.

[23]decision *regarding Balsu,* dated 17.08.2023 and numbered 23-39/727-250.

[24] Board's decision No. 25-01/11-8 dated 09.01.2025 regarding *Unmaş-II*

[25] The Board's decision dated 28.11.2024 and numbered 24-50/1144-493 *Biopharma* decision

[26] Similarly, the Board's decision dated 17.08.2023 and numbered 23-39/740-254 **In** *the Vesuvius* decision, it was ruled that the on-site inspection was not obstructed because it was not possible to reach a definitive determination that the erasure process had occurred during the on-site inspection. Furthermore, in the Board's decision dated September 21, 2023, numbered 23-45/840-296 , regarding *Boylular Gıda* , although it was noted that the BOYLULAR BETON official was called at 10:21 AM and warned via telephone not to carry out any erasure actions, considering that the entry into BOYLULAR BETON took place at 1:45 PM, it was understood that the erasure action carried out by the BOYLULAR BETON official at

		the data was deleted or the moment of deletion . In these decisions, it is understood that the Board, in light of the principle of proportionality, appreciated factors such as the context of the event and the intentions of the employees, and did not apply the penalty mechanically. the European Commission considers data deletion as an act of concealing evidence during on-site inspections , it exercises discretion in imposing fines depending on the specifics of the case. In 2024 , in an *IFF (Independent Facts)* decision , the Commission [27]fined a company €15.9 million for deleting WhatsApp messages of an employee during an on-site inspection . In exchange for the company accepting responsibility and cooperating, the Commission reduced the fine by up to 50%, taking into account the severity and duration of the violation. In 2025, the Finnish Market Court , following an on-site inspection by the Finnish competition authority at *Attendo , deemed* the deletion of WhatsApp messages a serious violation but reduced the fine, taking into account the company's cooperation and compliance efforts in restoring the deleted data [28]. 2025 was a year in which the on-site inspection powers of competition authorities were also examined before the courts. The General Court, in response to an appeal by the French tire manufacturer *Michelin regarding an on-site inspection* conducted by the Commission as part of its investigation into the tire sector , partially annulled the Commission's decision to conduct an on-site inspection [29]. In 2025, the General Court considered *Symrise* 's objections to the legality of the Commission's on-site inspection decision in the context of the right to privacy and the obligation to provide justification [30]. Furthermore, the General Court assessed the Commission's on-site inspection of [31]*Red Bull*

10:25 AM occurred before the entry into the premises – before the commencement of the on-site inspection – and therefore, it was concluded that the on-site inspection was not obstructed.

[27]See " *Commission fines International Flavors & Fragrances €15.9 million for deleting WhatsApp messages during an antitrust inspection".* https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_24_3435/IP_24_3435_EN.pdf, https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3435

[28]See https://www.kkv.fi/en/current/press-releases/market-court-imposed-a-e1-5-million-penalty-payment-on-attendo-for-obstructing-a-company-inspection/ Furthermore, in 2019, the Dutch Competition Authority fined a company €1.84 million for deleting WhatsApp conversations and leaving certain WhatsApp groups during an on-site inspection, but reduced the fine by 20% taking into account the company's cooperation. https://www.acm.nl/en/publications/acm-has-imposed-fine-184-million-euros-deleting-whatsapp-chat-conversations-during-dawn-raid , https://one.oecd.org/document/DAF/COMP/LACF(2020)2/en/pdf

[29]Judgment of the General Court (Second Chamber) of 9 July 2025, Compagnie générale des établissements Michelin v European Commission, T-188/24, ECLI:EU:T:2025:686. See also Dionnet, S., Schulz, A., & Viaene, H. (2025, August 13). " *Cooperate, protect, and challenge: Responding to dawn raids conducted by EU competition authorities"* , https://www.mwe.com/insights/cooperate-protect-and-challenge-responding-to-dawn-raids-conducted-by-eu-competition-authorities/

[30] Judgment of the General Court (First Chamber) of 30 April 2025, Symrise AG v European Commission, Case T-263/23 , ECLI identifier: ECLI:EU:T:2025:417

[31] Judgment of the General Court (Sixth Chamber) of 15 October 2025, Red Bull GmbH and Others v European Commission, Case T-306/23. " General Court rejects Red Bull's dawn raid challenge" , https://globalcompetitionreview.com/article/general-court-rejects-red-bulls-dawn-raid-challenge

		facilities in the context of the principle of proportionality, considering the Commission's inspection powers and evidence-gathering activities . Finally, in 2025, the European Court of Human Rights examined an application concerning an on-site inspection conducted by the Romanian competition authority, addressing the right to respect for the home and private life, and the necessity of a judicial search warrant for conducting the inspection without a court order [32]. In our country , in 2023, the Constitutional Court ruled that the right to inviolability of the home was violated due to on-site inspections of workplaces without a court order [33]. Although the differing reasoning in the Board's decisions following the Constitutional Court's ruling stated that acts of obstructing on-site inspections should not be considered until precedents are established in administrative law , [34]it has been observed that [35]the Board has subsequently ruled on the relevant cases and faced high administrative fines . In this study , The study will examine how the Board's approach to preventing on-site inspections has evolved over the years , and will analyze differences of opinion regarding the application of the penalty mechanism and the exercise of discretion in light of foreign competition authority decisions.
35.		

[32] **Case of BRD – Groupe Société Générale SA v. Romania,** *Application No.* 38798/13 , **European Court of Human Rights (Fourth Section),** Judgment of 18 March 2025

[33]Constitutional Court decision published in the Official Gazette dated June 20, 2023, and numbered 32227. https://www.resmigazete.gov.tr/eskiler/2023/06/20230620-5.pdf

[34]See the Board's decision dated 17.08.2023 and numbered 23-39/743-257 *regarding Ufuk Ready-Mix Concrete/DYM/Kösem Yapı.* The Board's decision dated 17.08.2023 and numbered 23-39/744-258 regarding *Canatanlar Construction* , and the Board's decision dated 17.08.2023 and numbered 23-39/741-255 regarding *Asbeton Yapı* The decisions are the Board's *Vesuvius* decision dated 17.08.2023 and numbered 23-39/740-254 , and the Board's *Rahmi Seymen* decision dated 17.08.2023 and numbered 23-39/717-246 .

[35]the Board's decision regarding *Coca-Cola,* see https://haber.rekabet.gov.tr/haber/coca-colaya-yerinde-incelemenin-engellemesi-nedeniyle-282-milyon-tl-ceza . For the Board's decision *regarding BİM* , see https://www.aa.com.tr/tr/gundem/rekabet-kurulundan-yerinde-incelemeyi-engelleyen-bime-1-3-milyar-liralik-ceza/3487173 . See also... The Board's decisions dated 28.09.2023 and numbered 23-46/872-309 regarding *Susa Gıda* , 19.10.2023 and numbered 23-49/945-337 regarding *Sırma* , 19.10.2023 and numbered 23-49/943-335 regarding *Sabri Bakışgan* , 05.10.2023 and numbered 23-47/898-318 regarding *AbbVie* , 19.10.2023 and numbered 23-49/942-334 regarding *Bekir Alçiçek* , 18.04.2024 and numbered 24-19/404-161 regarding *AGCO Tarım* , and 18.04.2024 and... *The Kalekim Lyksor* decision numbered 24-19/416-169 , the Board's *Serin Beton* decision dated 03.10.2024 and numbered 24-40/955-413 , the Board's *Armtek* decision dated 04.06.2024 and numbered 24-24/566-238 , the Board's *Koruma Klor Alkali* decision dated 12.06.2024 and numbered 24-26/627-261 , the Board's *Koçak Baklava decision* dated 15.08.2024 and numbered 24-33/772-322 , and the Board's decision dated 04.07.2024 and numbered 24-28/683-284... *The Mediterranean Taurus* decision was made by the Board on June 4, 2024, with decision number 24-24/565-237. *The Pilyem Gıda* decision, the *Tahsildaroğlu* decision dated 30.04.2025 and numbered 25-17/409-190 , *the Maruf OYSAL-Uğur Beton* decision dated 28.08.2025 and numbered 25-32/755-447 , *the IWALLET* decision dated 14.08.2025 and numbered 25-31/726-431, the Panagro *decision* dated 30.04.2024 and numbered 25-17/407-188, the Kuzey Kimya *decision* dated 18.04.2025 and numbered 25-15/350-165 , *the Pro Yem* decision dated 30.04.2025 and numbered 25-17/408-189 , the Board's decision ... *The Arzum Electrical Household Appliances* decision dated 20.02.2025 and numbered 25-07/178-89 , *the Pirelli Tires* decision dated 28.05.2025 and numbered 25-21/497-332 , *and the Tekyol Beton* decision dated 28.08.2025 and numbered 25-32/756-448.

	New Media at the Borders of Competition Law: Can Competition Law Be an Effective Tool in Protecting the Rights of News Broadcasting?	Digitalization, while impacting many sectors, has also led to a technology-driven transformation in the publishing industry. The increasing reliance on digital platforms as the primary source for consumers accessing news has resulted in these platforms acting as gateways for news publishers. At first glance, the relationship between digital platforms and news publishers appears to be a mutually beneficial structure: publishers direct user interest and curiosity to digital platforms through their content, while digital platforms increase website traffic, providing publishers with advertising revenue. However, as large technology companies have evolved into multi-layered digital ecosystems by developing their product and service portfolios over time, news publishers' economic dependence has increased, and the symbiotic relationship between the parties has begun to erode. Publishers, becoming dependent on the complementary services of digital ecosystems, primarily search engines, to reach their target audience and increase their visibility, are forced to accept commercial terms that infringe upon their economic rights. In this relationship, where the power asymmetry between the parties is becoming increasingly pronounced, the fact that technology companies add value to their ecosystems thanks to the labor of news publishers, while news publishers do not receive a fair share of this value, has led to the enactment of new regulatory rules at the European Union level to support the intellectual property rights of news publishers, and to member states' competition authorities initiating investigations into allegations of abuse of dominant position. From a broader perspective, these interventions appear to aim at achieving public interests such as ensuring sustainability in the news publishing sector, protecting the intellectual labor of news publishers, and maintaining media pluralism. In this respect, it gives the impression that competition law rules are being instrumentalized to achieve certain socio-political goals. The relatively weak economic foundations of these socio-political goals raise the question of to what extent competition law can deviate from its traditional approach focused on economic efficiency and consumer welfare. Indeed, from the perspective of the traditional competition law approach focused on consumer welfare, providing consumers with free access to diverse news sources and enabling digital platforms to offer innovative and high-quality services targeting consumer interests by drawing on publishers' content can be considered factors that increase competition. From this perspective, ensuring news publishers receive a fair share for the use of their content, protecting intellectual property rights, or ensuring pluralism and democratic functioning in the media can be considered objectives outside the primary focus of competition law. The aim of this study is to examine, from a normative perspective, the extent to which competition law rules should intervene in the relationship between news publishers and digital ecosystems. In this context, in light of the recent investigations launched against Google by the European Commission and the national competition authorities of member states, the study will discuss which traditional

		theories of harm can address existing market failures in the news publishing sector within the framework of competition law, and to what extent competition law is an effective tool for resolving these problems.
36.	Abuse of Dominant Position Through Dark Business Designs	The shift of commerce to the electronic environment and its conduct through online platforms has affected and transformed competition among businesses. This competition between businesses has moved to the electronic environment along with commerce, and competitive practices have adapted to the speed and requirements of the digital age. However, the negative impact of this rapid development and transformation on the competitive order and the resulting legal consequences are often noticed late, or sometimes not even noticed at all. Therefore, delays in identifying new commercial practices arising from digitalization make it impossible to prevent potential negative consequences. One of the commercial practices employed by businesses operating through online platforms and e-commerce service providers is dark commercial design. Dark commercial design is defined by the Ministry of Trade as [36]*"manipulative interface designs, options, or expressions that negatively affect consumers' decision-making or choice-making in digital environments, or that aim to cause changes in the decision they would normally make in favor of the seller or provider* . " At its core, dark commercial designs aim to persuade consumers to choose an option that benefits the business, click on it, share their personal data without their consent, sign up for a website, approve an option, or refrain from taking an action that could be detrimental to the business. All these actions are carried out by manipulating or deceiving the consumer's free will. However, one of the fundamental building blocks of fair, orderly, and lawful competition in the market is that trade be conducted with free and independent will. Although dark trade designs are only recently being discussed in Europe, America, and Türkiye, their negative impact on competition has quickly become apparent. The UK Competition and Markets Authority (CMA) has taken a pioneering step by issuing rulings on the disruptive effects of dark trade designs on competition. In our country, no studies have yet been conducted on the negative effects of dark commercial designs on the competitive landscape, nor is there any review or decision on this matter. However, when online platforms that

[36]The Ministry of Trade's press release dated August 10, 2023, titled "Dark Commercial Designs Under Review by the Advertising Board," can be found at: https://ticaret.gov.tr/haberler/reklam-kurulu-tarafindan-karanlik-ticari-tasarimlar-incelemeye-alindi

		incorporate dark commercial designs into their interfaces are examined, and their costs are taken into consideration, it is observed that they are generally used systematically by e-commerce intermediary service providers (ETAPs) that hold a dominant position in the market. This is because dominant ETAHSs have more user traffic compared to other businesses. Thus, by using their dominant position in the market, they reach more users and obtain more data from these users through dark commercial designs. The obtained data, along with its processing and storage, is transformed into targeted advertising and returns as a benefit to the business. This gives rise to the discussion that companies using dark commercial designs have a disruptive effect on the fair competition in the market. Therefore, it should be evaluated whether dark commercial designs are not merely an unfair commercial practice affecting consumer preferences, but also whether they disrupt fair competition. This paper will first define the concept and types of dark trade design and clarify its legal nature. Then, it will focus on the benefits obtained by dominant companies employing dark trade design and its anti-competitive effects. Thus, a connection will be established between dark trade design and competition law. Whether dark trade design can be directly classified as a violation of competition law will be analyzed, and concrete recommendations will be presented.
37.	The Binding Nature of the Competition Authority's Opinion Regarding the Legal Validity of Transfers to be Made Through Privatization	The transformation of traditional public service delivery models within the legal framework, the increased involvement of private entities in the provision of goods and services during crisis situations, and the state's withdrawal from certain areas have resulted in the privatization process. Due to the global economy and the competition it creates, which encourages cost reduction in the public sector, privatization is not a process that immediately exhausts its effects, but rather a legal concept that emerges within the context of the process and has constitutional and legal foundations in terms of form and procedure. Besides the administrative law aspect of the process, which involves the narrowing of public service activities, there is also a competition law aspect related to the entry or increased market share of private entities. Since the transfer through privatization is an administrative act carried out by the Privatization Administration and other relevant public institutions and organizations, it is unilateral, involves the use of public power, and can be executed by benefiting from the presumption of legality. However, the legal validity of the transfer through privatization is subject to the opinion of the Competition Authority. In this context, the transfer of a portion of the partnership shares or assets and resources of enterprises through privatization is subject to the condition of obtaining the opinion of the Competition Authority before tendering, within certain monetary thresholds (exceeding the turnover threshold). This tender is subject to the provisions of

		Law No. 4046 on Privatization Practices, unlike the State Tender Law No. 2886. Therefore, the legal validity of these tenders, which are subject to a special law, is subject to the opinion and permission of another administration, unlike other administrative procedures. In the relevant tenders, obtaining the opinion of the Competition Authority is procedurally mandatory if the turnover threshold is exceeded, and the validity of this opinion is subject to a specific time limit. Thus, the obligation to obtain an opinion results in the commencement of the permission process for the legal validity of the tender. In this context, the Council of State's view that the Competition Authority's opinion is a preparatory procedure and not an executive one, as its effects and consequences will become apparent when the permission process is established, needs to be discussed. Essentially, the understanding that the preparatory process of obtaining opinions following prior notification, which is valid in terms of administrative procedure theory, is ineffective, is not valid in this case. This is because the opinion obtained from the Competition Authority before the tender specifications are prepared serves both to ensure the continuation of the process and to necessitate its re-obtaining after the deadline. Specifically, in privatization transactions subject to prior notification, the obligation to obtain an opinion from the Competition Authority is a procedural step that must be completed before the tender conditions are announced to the relevant parties. Failure to complete this step constitutes a legal violation affecting the substance of the privatization process, rendering it unlawful in terms of form and procedure. In privatization transactions subject to prior notification and for which an opinion is obtained in this context, permission must be obtained from the Competition Authority in the post-tender phase. Since the permission process is carried out by the Privatization Administration, it can be said that an assessment is made of whether the process has been carried out within the framework of the opinion. In other words, the opinion given by the Competition Authority, subject to a specific time period, has a significant impact on both the content of the tender specifications and the legal validity of the tenders. If the tender is conducted in a manner contrary to the relevant opinion, a competitive environment cannot be ensured, and potential market disadvantages cannot be prevented; therefore, permission will not be granted, and the tender will not gain legal validity.
38.	A Look at Ex-Post Control of Concentrations with the French Competition Authority's Doctolib	In November 2025, the French Competition Authority fined the health technology company Doctolib for abusing its dominant position by acquiring its competitor MonDocteur in 2018. [37]This decision, referencing *the Towercast* ruling

[37]For the French version of the decision, please see https://www.autoritedelaconcurrence.fr/sites/default/files/integral_texts/2025-11/25d06_version_publique.pdf (Last accessed: 15.12.2025)

	Decision: When Does a Concentration Constitute Abuse of Dominant Position?	[38], is notable as the first instance where a transaction that did not exceed turnover thresholds was penalized for abuse of dominant position. With the Towercast decision, the European Court of Justice granted national competition authorities the power to examine transactions below the notification thresholds *ex post , within the scope of abuse of dominant position* . Indeed, in line with this decision, the European Court of Justice, in its 1973 *Continental Can* decision, [39]also assessed whether a merger and acquisition constituted an abuse of dominant position. According to that decision, it was determined that an undertaking in a dominant position constituted an abuse of dominant position if it increased its degree of dominance in a way that significantly hindered competition, meaning that only undertakings dependent on it remained in the market. the EU Mergers and Acquisitions Regulation, which would be adopted later and finalized in 2004, [40]came into force. With the entry into force of that regulation in 1990, it was accepted that abuse of dominant position could not be determined against transactions that were not notifiable and had already taken place. In this context, the French Competition Authority's decision on Doctolib on November 6, 2025, constitutes a landmark event as it is the first concrete application of the Towercast doctrine. This decision penalized Doctolib's acquisition of MonDocteur as an "killing takeover" *ex post* , embodying the paradigm shift regarding killing takeovers that have been ongoing in Europe in recent years. The main objective of this paper is to examine in detail the legal basis of the *ex post control mechanism,* as exemplified by the Doctolib decision, and the new risk areas created by the Doctolib decision for undertakings and practitioners,

[38]For the English version of the decision, please see https://curia.europa.eu/juris/document/document.jsf;jsessionid=2EF376F057C8526EDB6D06C06BB8C9BA?text=&docid=271327&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=5417083 (Last accessed: 15.12.2025)

[39]For the English version of the decision, please see https://curia.europa.eu/juris/showPdf.jsf?text=&docid=88341&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=5417539 (Last accessed: 15.12.2025)

[40]For the English version, please see https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004R0139 (Last accessed: 15.12.2025)

		as well as to analyze the potential impact of this paradigm on Turkish competition law. This is in contrast to *previous* papers on concentration control regimes that offered ex-ante [41]solutions. Our presentation will primarily explain how the European Court of Justice's Towercast decision addresses this issue and expands the supervisory mechanism. The analysis of the Doctolib decision, which forms the main body of the seminar, will focus on the criteria relied upon by the French competition authority in identifying this violation. These criteria include internal documents demonstrating the undertaking's intention to "kill a competing product" by acquiring MonDocteur, a significant increase in market share after the acquisition, and price increases occurring in the absence of competitors. The critical role of internal strategic documents prepared by undertakings during merger and acquisition processes, reflecting their intentions, in competition law investigations will be examined, along with the deterrent aspect of the fine imposed in the decision. Finally, the potential implications of this new practice for Turkish competition law will be assessed. The discussion will focus on whether the Competition Authority has the power, under Article 6 of Law No. 4054, to conduct *ex post investigations into concentrations below the notification thresholds.*
39.	The Limits of Information Exchange in Horizontal Mergers and Acquisitions: Lessons from Across the Atlantic	Although the concentration control regime is regulated by various guidelines and circulars, not every concept in practice has been fully clarified in either EU or Turkish competition law. One grey area is the limits of information exchange within the scope of horizontal transactions between competitors before the acquisition is completed. This circular focuses primarily on information exchanges characterized by the potential buyer gaining access to the target company's competitively sensitive information. At the intersection of merger and acquisition processes and the application of competition law, legal uncertainties may arise regarding the parties' compliance obligations under Article 4 of Law No. 4054 and Article 101 of the European Convention on Human Rights, due to the nature of the transaction. Although it is generally accepted that the *due diligence* process is essential for the success of a transaction, the boundaries of legality for pre-merger

[41]Within the scope of the Applied Competition Law Seminars at Bilgi University, papers titled *"A Matter of Authority in the Control of Mergers and Acquisitions: The Limits of the Definition of a Technology Undertaking"* and *"Everything Rigid Evaporates: Blurring Lines in the Control of Concentrations"* were presented on the same subject, however, these papers focused on ex-ante control.

		information exchange carried out within the scope of this preparation process have not been fully clarified in practice. Since there are no EU court decisions, European Commission decisions or published specific guidance clarifying the issue, this area of EU competition law remains largely without case law. Similarly, an examination of Turkish competition law practice reveals that the picture is no different from that in Europe; the lack of a dedicated resource on the subject continues here as well. Although the European Commission's *Altice/Portugal* [42]decision and the Turkish Competition Authority's *Param/Kartek* [43]decisions found that the parties exchanged information as a natural consequence of gun-jumping before the transaction authorization decision was made, these decisions do not include an assessment in terms of Article 101 of the Treaty on the Functioning of the European Union or Article 4 of Law No. 4054. However, the OECD's report on gun-jumping states that the exchange of information and coordination between merging parties in the pre-closing period may also be subject to sanctions under the rules relating to horizontally restrictive competition [44]. Unlike in the EU and Türkiye, this issue has been examined in more detail under US law and has been the subject of various court decisions. *the Computer Associates* [45]decision, the buyer's request for information was limited to data necessary to understand the target company's future earnings; it was stipulated that the information be kept confidential from marketing personnel . In the *Gemstar* [46]decision, competitors were prohibited from sharing forward-looking, customer-specific pricing information prior to a merger, but it was permitted under security measures consistent with reasonable *due*

[42]Case M.7993 - Altice / Pt Portugal, see https://ec.europa.eu/competition/mergers/cases/decisions/m7993_849_3.pdf (Last accessed: 2/12/2025); This decision was largely upheld by the European Court of Justice (T-425/18 - Altice Europe v Commission), see https://curia.europa.eu/juris/document/document.jsf?text=&docid=246448&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=15279573 (Last accessed: 2/12/2025).

[43]Decision of the Competition Board dated 04.04.2024 and numbered 24-16/390-148

[44]OECD (2018), Suspensory Effects of Merger Notifications and Gun Jumping, https://www.oecd.org/content/dam/oecd/en/publications/reports/2018/03/suspensory-effects-of-merger-notifications-and-gun-jumping_9a7a81c3/f1ee76ef-en.pdf , (Last Access Date: 2/12/2025)

[45]DDC 20 November 2002, Final Judgment (United States v. Computer Associates), § VD, p. 4; DDC April 23, 2002, Competitive Impact Assessment (United States v. Computer Associates) p. 16-17.

[46]DDC 11 July 2003, Final Judgment (Gemstar-TV Guide), §IV.B.4., p. 5.; DDC 19 March 2003, Competitive Impact Assessment (Gemstar-TV Guide), § B, p. 15-16.

		diligence processes . In the *Omnicare* [47]decision, it was stated that the exchange of information in merger negotiations could not be completely prohibited, but "sham" negotiations should be prevented. In *the Flakeboard* [48]and *Insilco* [49]cases, agreements regarding pricing, output, or customer allocation, as well as the sharing of unaggregated data, were found to be unlawful . This study will evaluate the implications of US decisions in light of Turkish law, detailing measures companies can take to minimize the risk of competition violations during merger and acquisition processes (*competition protocols* [50]*, clean team practices, data blackout* [51]*, parlor rooms* [52]*, etc.*). Finally, regarding the exchange of anti-competitive information without authorization, the study will analyze whether the act falls under both *gun-jumping* (preemptive action) and Article 4 of Law No. 4054, and potential "double penalty" discussions will be examined.
40.	Statute of Limitations for Violations: An Analysis of Competition Board and Court Decisions to Examine the Questions and Problems Raised by the Concept of Statute of Limitations in Competition Law	One of the fundamental principles of administrative law is that, just as those governed are expected to abide by the rules, the administration, which holds public power, also has the responsibility to act swiftly within the legal framework drawn for it. This requirement stems from the expectation that the administration, like a creditor in private law who is eager to collect their debt, should demonstrate determination in maintaining public order and fulfilling its legal obligations [53].

[47]ND III. 16 January 2009, No. 06 C 6235 (Omnicare), p. 1.

[48]ND Cal. 7 November 2014, Competitive Impact Assessment (Flakeboard), §B, p. 6.; 6 ND Cal. 2 February 2015, Final Judgment (Flakeboard), §VII, p. 5.

[49]FTC 30 January 1998, Decision and Order, Docket No. C-3783 (Insilco), §V, p. 11.

[50]The first method mentioned in the Brazilian Competition Authority's guidance on gun-jumping is a competition protocol. This protocol is recommended to be signed between the parties while the transaction is being negotiated or undergoing a competition review, and may include guidance on general competition procedures (including those relating to the exchange of sensitive information) to be followed until approval is obtained from the relevant competition authority.

[51]By appointing a competition law advisor, parties to a transaction can ensure that, prior to negotiation and due diligence processes, they will be warned by a competition law attorney about any competition-sensitive information that should not be shared, and that this external advisor will review agreements and any other documents that may contain competition-sensitive information prior to the due diligence process and, if necessary, redact relevant information. See https://www.ftc.gov/enforcement/competition-matters/2018/03/avoiding-antitrust-pitfalls-during-pre-merger-negotiations-due-diligence

[52]Lousine Hovhanisian, Access to Competitively Sensitive Information of the Target Company: Ancillary to Corporate Transactions or a Violation of Article 101(1) TFEU? (2020), University of Amsterdam, Master Thesis, p. 47.

[53]Ayşe Nur Özdemir, Application of Statute of Limitations in Competition Board Decisions, Competition Journal, Vol. 22, No. 1, p. 55; Turan Yıldırım, Statute of Limitations in Administrative Penalties, Journal of Administrative Law and Sciences, no. 22 (December 2023), pp. 25-46.

		Accordingly, the administration is given a specific time period to fulfill its authority and responsibilities. If the administration fails to take the necessary action or carry out the transaction within this period, it should be considered unwilling to do so. In this regard, concerning the time limitation that leads to the termination of the administration's authority to carry out a specific action or transaction upon the expiration of the legally prescribed period, an 8-year statute of limitations for investigations under Article 20 of the Law No. 5326 on Misdemeanors applies to competition violations. As Özdemir rightly points out in legal doctrine, this time limit is not merely a procedural rule, but a substantive legal institution that eliminates the state's "power to punish [54]." Once the time limit expires, it becomes impossible for the administration to take any action. The Competition Board, however, has different decisions regarding the statute of limitations. In its decision on *Postal Cargo Transportation, the Competition Board* [55]accepted the defense of statute of limitations on the grounds that the relevant undertaking was not a party in the preliminary investigation phase and the investigation decision was taken 8 years after the act. A recent example is *the Veysel Elektronik case.*[56] In its decision, the Board did not impose any administrative fine on the undertaking in question, based on the premise that the decision must be made within 8 years from the date of the finding. However, this situation constitutes an exception within the jurisprudence of the Competition Board. However, one of the most controversial aspects of the issue, and one that could backfire on the undertakings, is the Board's " *single ongoing violation* " approach. As seen in the *Uğur Soğutma* [57]decision, the Board can conclude that the violation is ongoing by linking an older piece of evidence, which appears to be past the statute of limitations, with more recent evidence . In this scenario, the statute of limitations begins not from the date the act was committed, but from the date the continuity ended (the most recent evidence).

[54]Ayşe Nur Özdemir, Application of Statute of Limitations in Competition Board Decisions, Competition Journal, Vol. 22, No. 1, p. 90.

[55]Competition Board's decision dated 16.01.2020 and numbered 20-04/47-25

[56]Competition Board's decision dated 07.11.2024 and numbered 24-45/1072-458

[57]Decision of the Competition Board dated 14.12.2023 and numbered 23-58/1147-409

		The lack of a clear and uniform approach to the statute of limitations by the Competition Board and administrative courts leads to different legal debates in each decision regarding competition violations. In the face of this complex situation, the main objective of this study is to analyze recent decisions addressing the statute of limitations, such as those concerning *Labor Force III* [58], *Waste Paper* [59], *Maçkolik* [60], *Banks* [61], *Veysel Electronics* [62], *Uğur Cooling* [63], *Fresh Yeast* [64], *Welding* [65], *Postal Cargo Transportation* [66], *White Meat II* [67], and *Burdur Freelance Mechanical Engineers,* [68]as well as all other jurisprudence of the Competition Board [69]. Subsequently, the attitudes and decisions of the courts on the subject will be analyzed, and how both the courts and the Board have approached the statute of limitations [70]will be examined in detail within its historical context. Ultimately, in light of the findings obtained within the scope of this circular, concrete proposals will be developed regarding how the statute of limitations can be applied uniformly to different legal situations.

[58]Competition Board's decision dated 27.02.2024 and numbered 24-10/170-66

[59]Competition Board's decision dated 10.04.2025 and numbered 25-14/323-153

[60]Competition Board's decision dated 20.02.2025 and numbered 25-07/170-84

[61]Decision No. 25-01/23-20 of the Competition Board dated 09.01.2025

[62]Competition Board's decision dated 07.11.2024 and numbered 24-45/1072-458

[63]Decision of the Competition Board dated 14.12.2023 and numbered 23-58/1147-409

[64]Competition Board's decision dated 17.08.2023 and numbered 23-39/755-264

[65]Competition Board's decision dated 08.04.2021 and numbered 21-20/247-104

[66]Competition Board's decision dated 16.01.2020 and numbered 20-04/47-25

[67]Competition Board's decision dated 13.03.2019 and numbered 19-12/155-70

[68]Competition Board's decision dated 14.12.2017 and numbered 17-41/640-279

[69]The Competition Board's decisions dated 24.11.1999 and numbered 99-53/575-365; 25.07.2002 and numbered 02-45/530-219; 18.02.2006 and numbered 06-05/109-49; 08.02.2007 and numbered 07-13/101-30; 08.03.2007 and numbered 07-19/192-63; 26.08.2009 and numbered 09-39/949-236; and 16.09.2009 and numbered 09-42/1087-272; The Competition Board's decisions dated 27.01.2011 and numbered 11-06/101-34; 03.03.2011 and numbered 11-12/226-76; 07.03.2011 and numbered 11-13/243-78; 08.03.2012 and numbered 12-10/328-98; 29.05.2012 and numbered 12-28/832-238; 31.01.2013 and numbered 13-08/94-55; and 02.05.2013 and numbered 13-25/334-152; The Competition Board's decisions dated 21.05.2013 and numbered 13-29/402-179; 16.12.2013 and numbered 13-70/952-403; 08.05.2014 and numbered 14-17/330-142; 24.09.2014 and numbered 14-35/697-309; 19.02.2015 and numbered 15-08/110-46; 09.09.2015 and numbered 15-36/559-182; and 16.12.2015 and numbered 15-44/740-267; The Competition Board's decisions dated 11.01.2017 and numbered 17-02/17-8; 07.09.2017 and numbered 17-28/481-207; 28.11.2017 and numbered 17-39/636-276; 11.01.2018 and numbered 18-02/20-10; 10.01.2019 and numbered 19-03/23-10; 20.06.2019 and numbered 19-22/352-158; and 07.11.2019 and numbered 19-38/575-243; The Competition Board's decisions dated 23.01.2020 and numbered 20-06/62-34; 09.07.2020 and numbered 20-33/439-196; 19.11.2020 and numbered 20-50/695-306; and 04.03.2021 and numbered 21-11/155-64.

[70]Until 2008, the statute of limitations for investigations in competition law, which corresponds to the statute of limitations for prosecution in criminal law, was regulated by Article 19 of Law No. 4054. However, for the purpose of uniformity, it was requested that actions requiring administrative fines be subject to the general regulations in the Law on Misdemeanors, and the general regulation replaced the special regulation.

41.	We Are the Penalties for Separate Turnovers: Calculating Administrative Fines for Competition Violations in Labor Markets	As is known, under the Law No. 4054 on the Protection of Competition (" **Law No. 4054** "), undertakings engaging in prohibited behaviors are subject to administrative fines calculated based on their annual gross income at the end of the fiscal year preceding the date of the final decision, or, if this cannot be calculated, at the end of the fiscal year closest to the final decision. In other words, the starting point for determining administrative fines in competition law is, as a rule, the turnover of the undertaking. On the other hand, the legislation forming the basis for calculating administrative fines does not provide a clear explanation as to which turnover the fine should be calculated based on. Indeed, considering the definition of "annual gross income" in the Regulation on Administrative Fines to be Imposed in Cases of Restrictive Agreements, Concerted Actions and Decisions and Abuse of Dominant Position (" **the Penalty Regulation** "), it is seen that no distinction is made in terms of the turnover used as the basis for the basic administrative fine (e.g., turnover in the relevant market where the violation occurred, domestic sales, etc.). In this context, although not explicitly stated in Law No. 4054 and the Penalty Regulation, it can be argued that the total turnover will be used as the basis for calculating the basic administrative fine. In practice, however, there is no consensus on which turnover should be used as the basis for calculating the basic administrative fine. Indeed, while some decisions of the Competition Board (" **the Board** ") consider the relevant product market or the relevant geographical market when determining the turnover to be used as the basis for the administrative fine; in other decisions, the total turnover of the relevant undertaking is taken as the basis without any differentiation. In this context, the silence of the legislative provisions and the diversity of opinions in practice come together, and thus the uncertainty regarding the basis for the penalty persists. The impact of this uncertainty on labor markets, a focus the Board has recently been heavily invested in, is being closely monitored in competition law circles. An examination of the Board's reasoned decisions regarding labor markets reveals that the method used to determine the turnover for calculating the basic penalty is not explicitly stated; however, dissenting opinions indicate that the tax base is calculated by considering the ratio of employee costs to turnover.

		For example, in the different reasoning letter regarding the Board's decision dated 27.02.2024 and numbered 24-10/170-66 *on Technology Enterprises* , Ünlü states that the basis for applying the administrative fine rate in respect of the violation in question was calculated by taking into account the ratio of employee costs to turnover. However, Ünlü emphasized that the Board's common practice is to base the calculation of administrative fines on net sales in the uniform chart of accounts, and therefore, he stated that he did not agree with the calculation method adopted in this case. Similarly, the Board's reasoning in its decision dated July 26, 2023, numbered 23-34/649-218, *also* includes explanations regarding the method of calculating and determining administrative fines for competition violations. In this context, Ünlü and Uzun first state that, since the violation in question is related to labor, the basis for applying the administrative fine rate is calculated by considering the ratio of employee costs to turnover. However, Ünlü and Uzun reiterate that the Board's common practice is to base the calculation of administrative fines on the net sales of the relevant undertaking in its uniform chart of accounts. This article examines the jurisprudence of the Board and the Council of State regarding how the methods for determining turnover, which will be used as the basis for setting the basic administrative fine, can be applied to competition violations in labor markets, and discusses whether the Board will maintain its jurisprudence in its currently published decisions.

42.	A Comparative Review of Current Board Case Law and EU Practice: Under What Circumstances Are Undertakings Deemed to Have Provided False/Misleading Information?	Competition authorities, while conducting investigations within the scope of their powers derived from the law, evaluating exemption and negative determination applications, merger and acquisition authorization requests, and requesting information and documents, may impose administrative fines if the information provided by undertakings is deemed to be incomplete, misleading, or incorrect. Within the scope of this investigation, the regulations regarding the provision of false, misleading, or incomplete information in Turkish competition law and the procedural penalties to be applied within this framework will be examined in light of the decisions of the Competition Board ("Board") and will be evaluated comparatively with the practice of the European Union ("EU"). According to Article 14 of the Law No. 4054 on the Protection of Competition ("the Law"), the Board may request any information it deems necessary from undertakings; and according to Article 15, it may conduct investigations in undertakings when it deems necessary. The sanctions to be applied in case the information provided by undertakings is found to be false or misleading during the exercise of these powers by the Board are regulated in Articles 16 (Administrative Fine) and 17 (Proportional Administrative Fine) of the Law. On the other hand, the types of information provided by undertakings that will be penalized within this scope (e.g., inconsistent data, information submitted in error, etc.) are clarified by the Board's case law. In this context, an examination of the Board's current practice reveals that the importance of the requested information or document to the case file, and its impact on the final decision, increases the likelihood of administrative sanctions being applied in relation to information requests. Indeed, in its Biota decision dated 20.02.2025 and numbered 25-07/157-79, the Board clearly demonstrated this approach, stating that the contradictory statements submitted on different dates (i) relate to concrete, measurable, and verifiable data, (ii) concern an issue of importance to the case, and (iii) affect the final decision, and therefore decided to impose an administrative fine on the undertaking that submitted the information. However, as can be understood from the dissenting opinion in the Board's Novonesis decision dated 27.03.2025 and numbered 25-13/297-140, although it could not be clearly determined whether the contradictory information submitted by the undertaking constituted false or misleading information, the Board decided to impose an administrative fine on the undertaking without even receiving an explanation from the undertaking.

		In the EU, pursuant to Article 18 of Regulation (EC) No. 1/2003, the European Commission ("Commission") can request all necessary information from undertakings and associations of undertakings, either by simple request or by decision, within the scope of its functions. In any case, providing false or misleading information in response to a request for information is subject to sanctions under Article 23 of Regulation 1/2003. On the other hand, information requested by decision may also be subject to proportional administrative fines under Article 24. On 08.09.2025, the Commission exercised its power to impose sanctions for incomplete information for the first time under Article 23 of Regulation 1/2003. [Commission decision of 08.09.2025 for file no. EC. 40966] In light of the above explanations, the provision of false or misleading information by undertakings is considered a serious procedural violation that directly affects the ability of competition authorities to conduct effective investigations and make correct decisions. The obligation to provide information requires undertakings not only to provide accurate information but also to provide complete and timely information. Recent Board decisions demonstrate the Board's increasing sensitivity to this issue. Within this framework, the legal nature of sanctions related to false and misleading information, the conditions of their application, and the consequences for undertakings will be addressed in this communiqué.
43.	Legal Analysis of the Changes Introduced by the New Regulation on the Calculation of Administrative Fines in Competition Law	Secondary regulations concerning the calculation of administrative fines in competition law not only define the framework of sanctions policy but also play a decisive role in the concretization of the principles of legal certainty and predictability. In this context, the recently enacted Penalties Regulation contains significant changes that will directly affect both the Competition Board's sanctions practice and the risk assessments of undertakings. This paper aims to examine the innovations introduced by this regulation and their legal consequences from a critical perspective. First, the reasons for the regulation's issuance and which expectations it has met or failed to meet will be discussed. In practice , the primary objectives appear to be ensuring uniformity in penalty calculations, strengthening the

		justification for Board decisions, and increasing deterrence. However, the extent to which the regulation has increased predictability for businesses and whether it has truly eliminated uncertainties in practice should also be evaluated. Secondly, the distinction between combined and independent violations will be addressed. The new regulation, unlike the old one, is notable for its explicit acceptance of methods based on the detection of independent violations. This approach grants the Board more flexibility in deciding whether to penalize numerous behaviors under a single violation or separately; however, it can also lead to increased penalties and a stricter enforcement policy. Under the third heading, the significant expansion of the Competition Board's discretionary power due to the removal of lower and upper limits in determining the basic penalty will be evaluated. This situation results in a "widening of the penalty range" and raises questions regarding the principles of legal certainty and predictability. In this paper, this issue will be addressed in light of the Constitutional Court's assessments regarding the principles of proportionality and certainty. Fourthly, potential implementation problems that may arise regarding violations that occurred before the new regulation came into force, and the Competition Board's approach during this transition period will be examined. Disputes that may arise in the context of the principle of preferential treatment, the prohibition of retroactive application, and vested rights will be discussed within this framework. Under the fifth heading, the advantages and disadvantages of the new regulation will be subjected to a holistic evaluation. The gains achieved in terms of effectiveness and deterrence will be compared with the risks arising in terms of legal security. Finally, the relationship between the reasoning behind the decision of the 13th Chamber of the Council of State in the case filed seeking the annulment of the old regulation and the new regulation will be examined; whether the new regulation aligns with these judicial assessments or whether it contradicts them will be discussed. This analysis will emphasize the importance of developing secondary regulations in a manner consistent with judicial precedents.
44.		

	Balancing Intellectual Property Rights and Competition Law: The Implications of Technology Transfer Agreements	Technological innovations are critical for diversifying R&D efforts related to new products and supporting the development of these processes, as well as increasing competition in the market. Technological innovations, often supported in a free market, accelerate economic and technical progress through technology transfer agreements, while also encouraging the widespread use of intellectual property rights. However, in practice, technology transfer practices can sometimes lead to restrictive consequences for competition, and such effects can negatively impact the market structure. Therefore, the control of technology transfer matters and the ensuring of economic balance are of great importance from the perspective of competition law. While both intellectual property rights and competition law aim to increase consumer welfare, the tools and methods used by these two areas to achieve this goal differ significantly. Consequently, establishing a balance between the protection of intellectual property rights and the protection of competition is a matter that must be carefully considered from both a legal and economic standpoint. In EU and Turkish competition law, technology transfer agreements are regulated by special group exemption regimes that consider the balance between innovation and competition. While EU Regulation 772/2004 and Communication 2008/2 on Group Exemptions for Technology Transfer Agreements ("the Communication") provide for a similar system with regard to market share thresholds and stricter restrictions, the Communication imposes higher market share thresholds and adopts a stricter approach with respect to some restrictions. Furthermore, decisions of the European Court of Justice, such as those in the Société Technique Minière and Grundig cases, as well as the Commission's EU Regulation 772/2004 and related guidelines, emphasize the importance of the economic approach and market structure in analyzing the impact of technology transfer agreements on competition. As emphasized in the Competition Board's decision numbered 21-51/715-356, patent licensing agreements are by their nature technology transfer agreements and generally have a positive impact on competition by serving both to protect the interests of the parties and to disseminate new technologies in the market; however, they may have restrictive effects on competition, particularly under the terms imposed by the licensor or in certain market conditions. Similarly, as stated in the Competition Board's Vestel/Phillips decision, the relationship between intellectual property and competition law, and the issues they clash with, are clearly understood within the scope of evaluating the invalidity clauses in technology transfer agreements. When evaluating the impact of such agreements on competition, the Competition Board primarily considers the group exemption conditions and market share

		thresholds in the Communiqué, defines the relevant product market first, and takes the technology market into account only in exceptional cases. In particular, while the Competition Board's approach is parallel to EU practice, it adopts a more practical and flexible analytical method, taking into account Turkey's level of technological advancement and market structure. The main objective of this study is to examine the effects of technology transfer agreements under competition law within the framework of Competition Board decisions and relevant legislation, and within the context of European Union practice, and to conduct a comprehensive economic and legal analysis of these agreements. In this context, a comprehensive examination will be conducted in light of the Competition Board's decisions, evaluating the definition, scope, and function of technology transfer agreements, as well as their positive and negative impacts on competition; furthermore, a systematic analysis will be carried out in light of primary and secondary regulations related to group exemption applications and the case law of competition authorities.
45.	In Shopping Mall Lease Agreements "Connecting" Practices	Shopping malls have evolved from being mere real estate providers to becoming two-way markets dominating the retail sector. In this ecosystem, the relationship between mall management and customers (tenants) should be examined not only within the context of classical rental law, but also under the "vertical restrictions" regime of competition law. This paper focuses on how shopping mall managements, using their dominant power, force tenants to purchase ancillary services ("tied products") such as "cleaning, security, decoration, logistics, certification, or common area management" in addition to the main product, "store/shop space" (the tied product), either from themselves or from third parties they designate. This practice, referred to as "Tying" in competition law literature, will be analyzed in terms of its anti-competitive effects in ancillary service markets and its restriction of tenants' commercial freedom. 1. LEGAL ASSESSMENT 1.1. Abuse of Dominant Position For an act to be considered a violation, it must first be determined whether the shopping mall holds a dominant position in the relevant market. For example, if there is only one shopping mall with an area of over 500 m2 in the city where the shopping mall is located, the tenant candidate who has been "agreed upon to have a shopping mall branch under a franchise agreement" holds a dominant position. If the shopping mall *is indispensable for the tenant's*

		commercial activities , actions such as imposing ancillary service providers on the tenant constitute exploitative and exclusionary abuse under Article 6. For example, cleaning companies other than the one designated by the shopping mall management cannot access potential tenants in that mall, artificially closing off access to non-market cleaning companies, which creates an exclusionary effect. Similarly, if a tenant is forced to pay a higher price for a service that they could obtain more cheaply in the free market due to the imposition of the shopping mall management, this should be called an "exploitative activity." 2.2. In Terms of Vertical Agreements For shopping malls that are not in a dominant position, the matter is evaluated under the scope of "Vertical Agreements". If the "tied product" (e.g., security service) can be separated from the "binding product" (lease agreement) due to its nature or commercial practices, this imposition is considered to be an agreement that restricts competition. However, companies conduct these agreements verbally, and since they appear as " *proposals for ancillary service companies* " between the tenant and the shopping mall management, they create difficulties in providing evidence during the Board's investigations. 3. ELEMENTS OF VIOLATION IN TERMS OF CONNECTION In the report, the existence of context specifically in shopping malls will be discussed through the following four elements: a. Two Separate Product Entities b. Market Power c. Coercion d. Restriction of Competition 4. FROM THE PERSPECTIVE OF "EFFICIENCY DEFENSE" The strongest arguments put forward by shopping mall managements in defending these practices will also be discussed impartially in the report: -"Preserving the overall aesthetics and brand value of the shopping mall" "To avoid security vulnerabilities, we should choose a single security company."

		- "The aim of creating economies of scale" The statement will outline the distinction between when these defenses can be considered "Objective Necessity" and when they are merely being used as a means of profit maximization. 5. ECONOMIC ASSESSMENT Tipping is a method used by shopping malls to "hidden" increase their rental income. While the tenant seemingly pays a reasonable rent, their total costs increase due to exorbitantly priced mandatory ancillary services. This cost increase inevitably passes on to the end consumer (product prices). Therefore, this practice indirectly reduces consumer welfare. 6. CONCLUSION The statement will conclude by arguing that while such "imposition of ancillary services" in shopping mall lease agreements are not automatically prohibited under Competition Law, they should be subject to strict scrutiny through "Impact Analysis."
46.	Zero-Price Markets, Personalized Advertising, and Personal Data as a Competitive Element within the Scope of Competition Law.	The rapid advancement of technology and the accompanying rise of digitalization have led to the emergence of zero-price markets where consumers, often unknowingly, receive "free" services in exchange for their personal data. In zero-price markets, advertising is one of the most important sources of revenue, and personalized advertising, in particular, and the personal data required to provide it, function as a competitive parameter. While competition authorities traditionally consider competitive elements such as price, production, and quality, factors outside this classical paradigm are influential in zero-price markets. In this context, the question of how concepts such as market definition, market power, and concentration controls in competition law should be evaluated in zero-price digital markets requires special examination. In markets where data accumulation and analysis are crucial, particularly zero-price markets, personal data is considered a fundamental input and a primary source for creating a competitive advantage. Data collected from users is used not only for the development and improvement of products or services but also for the purpose of providing targeted advertising to consumers. While consumers may lack detailed information about how their data is used or have limited control over its use, potentially detrimental to consumers, the use of data for personalized and targeted advertising can also contribute to competitive advantages. On the one hand, personalized and targeted advertising

		made possible by the use of data makes online advertising services more attractive than traditional advertising; on the other hand, potential abuses such as "dark patterns" and practices that attempt to influence consumers to make decisions contrary to their interests increase consumer privacy concerns. Therefore, in addition to personal data, the protection of data privacy can be considered a quality, choice, and even price factor from a competition law perspective. In zero-price digital marketplaces, the European Union Commission ("Commission") decisions are guiding in evaluating competitive aspects such as market definition, data-driven market power, the advantages of large datasets in online advertising, and consumer privacy concerns (e.g., COMP/M.7217, Facebook/WhatsApp, COMP/M.8124, Microsoft/LinkedIn decisions). It is also of great importance to examine these issues, particularly within the framework of the Digital Markets Act and the related current Commission practices and decisions. Indeed, recent decisions of the Competition Board regarding the legal framework for data-driven operations and data-related concerns in digital marketplaces should not be overlooked (e.g., the Board's decision dated 07.11.2024, numbered 24-45/1053-450). In conclusion, our paper and presentation will address: (i) the examination of zero-price markets through the lens of competition law; (ii) the analysis of advertising, particularly personalized and targeted advertising, which forms the basis of these markets, in the context of personal data, under the headings of data-driven market power, competitiveness, and anti-competitive behavior; and (iii) the evaluation of the protection of personal data privacy from a competition law perspective, considering the effectiveness of data-driven practices in online advertising on consumers, as well as the privacy concerns they create.
47.	The Shift in the Axis of the Essential Element Doctrine in the Digital Age: The Loosening of Boundaries by the Android Auto Decision and its Implications in Turkish Competition Law: The Recent Çiçeksepeti Decision	One of the most controversial areas of competition law, refusal to contract, is shaped by the delicate balance between freedom of enterprise and barriers to market entry. The "essential element doctrine," crystallized by the CJEU's 1998 Bronner decision, links the right of access to infrastructure to strict conditions such as "absolute indispensability" and "complete elimination of competition." However, this high threshold, designed for physical infrastructure (ports, railways, etc.), can become a bottleneck that locks intervention in the digital platform economy, which is empowered by network effects and data advantages. This paper aims to discuss under what conditions traditional testing becomes ineffective in digital ecosystems and in what direction standards are forced to "flex." The CJEU's 2025 Android Auto decision is a landmark ruling that radically expands the application of the essential element doctrine to digital platforms. The Court ruled that the strict "indispensability" requirement of the Bronner

		decision does not apply when a platform is already open to third-party applications. In this new approach, even if access to the platform is not a vital necessity for a competing undertaking, denying access can be considered an abuse of dominant position if it reduces the application's appeal to consumers and hinders innovation. This paper will examine two notable aspects of the decision: firstly, it imposes an obligation to actively develop technical templates to ensure interoperability, going beyond a mere passive "access permission"; secondly, it primarily considers objective justifications for avoiding this obligation in terms of technical impossibility and platform security, while giving more limited scope to purely commercial/organizational justifications. This flexible approach in the EU has led to a similar approach in the decisions of the Turkish Competition Authority. The Authority has developed a precedent that interprets the "indispensability" criterion in digital markets not as a rigid formula, but according to the commercial realities of the market. In the Sahibinden decision, which is a cornerstone of this approach, the Authority did not consider the rejection of the data integration (API) request as absolutely indispensable for the competing undertaking (REOS) to continue its operations; it justified the platform's need to protect its own business model and data security and did not intervene. As a reflection of this decision, a similar economic logic was followed in the Çiçeksepeti case. Despite the presence of very strong competitors such as Trendyol and Hepsiburada in the e-commerce market and the fact that sellers can also sell on these platforms, the Authority defined Çiçeksepeti as an "indispensable commercial partner" due to its specific weight in the flower category. As a result of this finding, Çiçeksepeti was forced to regain access to third-party sellers whose platforms it had closed and, with the commitments it offered, opened its platform to competition within certain quality standards. This situation demonstrates that, despite the presence of competitors, the element of indispensability is not sought in its strictest form (absolute impossibility), but rather the commercial criticality of the platform in the relevant niche market is taken into account. Within this framework, the similarity between the Board's approach in the Sahibinden and Çiçeksepeti cases and that of the EU, and how the approach to the doctrine of mandatory elements might be in the future, based on current decisions, will be examined. In summary, the paper will first detail the principle established by the CJEU's Android Auto decision, which stipulates that the indispensability requirement is waived in cases of "partial transparency," and the "active development obligation." Subsequently, the Turkish Competition Authority's decisions regarding Sahibinden and Çiçeksepeti will be analyzed comparatively to discuss whether the Authority is evolving towards an "active obligation" doctrine similar to the EU in digital markets, or towards its own unique "commercial indispensability" standard. The study

		will conclude by revealing the effects of this dual standard between digital and traditional markets (e.g., port services) on legal certainty and its potential future implications.
48.	Unfair Contract Terms in Competition Law: A Comparative Examination from the Perspective of Abuse of Dominant Position	While unfair contract terms are regulated in Turkish law under various disciplines such as contract law, consumer protection law, and unfair competition law, they lack a clear and established framework as an independent type of infringement within competition law. Indeed, there is no explicit reference to unfair contract terms in the Law No. 4054 on the Protection of Competition ("Law No. 4054"). Similarly, although numerous decisions in Turkish judicial practice have found unfair contract terms to be unlawful under contract law or consumer law, the established jurisprudence of the Competition Board ("Board") does not contain a single instance where such terms alone constitute an abuse of dominant position. This situation demonstrates that Turkish competition law practice approaches claims of unfair contract terms cautiously and with limited scope. This approach is clearly demonstrated in the Board's recent Microsoft decision. The Board stated that allegations of the imposition of unfair commercial terms should primarily be evaluated within the framework of contract law and unfair competition provisions, but that such practices could raise concerns under competition law if they stem from a dominant position and have anti-competitive consequences. In this context, it was concluded that the contractual terms examined in the case in question did not exceed this threshold, and no investigation was deemed necessary. Similarly, in its WhatsApp decision, the Board examined whether unfair contractual terms constituted an abuse of dominant position under Article 6 of Law No. 4054 in light of European Union ("EU") practices, but did not find a violation. In contrast, under EU competition law, the imposition of unfair contractual or commercial terms by dominant undertakings is explicitly regulated as an abuse of dominant position under Article 102 of the ECHR. This approach has long been consistently maintained in the case law of the European Court of Justice ("ECJ") and the Commission, and decisions such as those concerning Google Shopping and Apple Music Streaming have clarified the conditions under which unfair contractual terms may constitute a violation of competition law. These precedents assess whether the contractual terms imposed by dominant undertakings are necessary to achieve legitimate commercial objectives, whether they create a disproportionate distribution of burdens between the parties, and whether they restrict the competitive process or the economic freedom of trading partners.

		The CJEU, particularly in the BRT/SABAM and Alsatel decisions, emphasized that undertakings in a dominant position cannot impose unnecessary or excessive obligations on the contracting parties; in the Channel 5 and Unilever decisions, it stated that the economic context of the contract terms and their actual effects on the market must be taken into account to determine abuse of dominant position. In the Commission's Tetra Pak II and AAMS decisions, it was also concluded that abuse of dominant position under Article 102 of the ECHR was present. In this assessment, the exploitative nature of certain provisions in the sales and lease agreements in the Tetra Pak II decision and the exclusionary and discriminatory restriction of market access through the rejection of distribution agreements and contractual restrictions on imported products in the AAMS decision were decisive factors. Recently, the Commission, in its formal investigation into Google, based its allegations of abuse of dominant position on a theory of harm alleging that competition was distorted by imposing unfair contractual terms on content providers and publishers. This divergence between EU competition law and Turkish competition law does not mean that unfair contract terms are completely excluded from Turkish competition law; rather, it shows that the conditions under which this concept can be included in the analysis of abuse of dominant position have not yet been clarified in case law. In this context, the contextual and economic analysis-based approach developed in EU law offers an important point of comparison and reference for future assessments of Turkish competition law. Within this framework, the study will comparatively examine, in light of the decisions of the Board, the Commission, and the ECJ, whether unfair contract terms can be assessed as abuse of dominant position in Turkish law, similar to EU law. The aim of the study is to determine under what conditions unfair contract terms can be considered as an independent theory of damage in competition law, and to evaluate the extent to which the contextual and economic analysis approach developed in EU practice can be guiding for Turkish competition law.
49.	Scale Differences in Competition Protection: Interactions Between Competition Law and Unfair Competition Law	Competition law and unfair competition law aim to protect public and individual interests at different scales. However, both branches of law serve this purpose at different levels and with different intervention tools. While competition law aims to protect the market structure and free competition order at the macro level, unfair competition law monitors the behavior of market actors at the micro level and ensures the implementation of the principle of fairness. In this context, it is accepted that competition law focuses on ensuring a competitive market

		structure and the macroeconomic interests of the state rather than individual interests; therefore, it necessitates a broader and more holistic perspective. Unfair competition law, on the other hand, ensures the protection of fair competition and the freedom of economic activity at the micro level. Therefore, the two branches of law show significant differences in terms of their object of intervention and normative approach. However, they complement each other. In recent years, competition authorities in Türkiye and internationally have been trying to define the boundaries of these branches of law, taking these differences into account. In Türkiye, the Competition Board has predominantly considered actions within the scope of unfair competition law to fall solely under private law. However, recent international practices indicate that a different approach may be acceptable under certain conditions. Indeed, some decisions of international competition authorities show that certain commercial behaviors traditionally considered unfair competition may be deemed as competition violations. This approach demonstrates that, under the necessary conditions, the boundaries of the two branches of law can intersect. This paper will examine the points of distinction and intersection between these two branches of law, within the framework of normative structure, intervention scale, and the approaches of Turkish and international competition authorities. Furthermore, examples from recent international competition law practices will be included to highlight the conditions under which behaviors traditionally considered unfair competition are deemed to constitute a competition violation. This approach aims to facilitate understanding of the interaction and practical limitations of these two branches of law. Thus, by addressing the objective of competition protection at different scales within the framework of unfair competition law and the theory and practice of competition law, the goal is to offer a holistic perspective on competition protection.
50.	The Intertwining of Regulation and Competition Law: Hybrid Control Models	Today, particularly in regulated sectors such as infrastructure, agriculture, telecommunications, and energy, but also in digital markets, the traditional lines between competition law and regulatory regimes are becoming increasingly blurred. Both globally and nationally, "hybrid regulatory-competition regimes" are being increasingly implemented, simultaneously safeguarding market structure, service quality, infrastructure investment, and consumer/supplier welfare. This study examines the dynamics of this transformation and its implications globally and specifically in Turkey.

		Internationally, at the end of 2024, the Competition and Markets Authority (CMA) approved the "Vodafone / Three UK" merger in exchange for behavioral commitments including infrastructure investment commitments, access obligations, and regulatory pricing practices in retail/wholesale tariffs, instead of classic structural split or blocking measures. This approach demonstrated that it integrated not only concentration effects but also infrastructure renewal, consumer protection, and reduction of barriers to market entry into competition law processes. Similarly, in its 2021 "Apple-dating applications" decision, the Dutch Competition Authority (ACM) not only found an anti-competitive violation but also permitted Apple to use alternative payment systems; it established technical and contractual rules for the implementation of these systems and imposed ex post-behavioral obligations for their continuous monitoring. This decision served as an example of establishing de facto digital market regulation through competition law and demonstrated how competition authorities filled the regulatory gap with hybrid tools prior to the DMA. The Digital Markets Act (DMA), adopted at the EU level on September 14, 2022, and implemented in 2023, imposes ex ante obligations on certain "gatekeeper" platforms, preventing the abuse of market power. The prohibition of self-preferencing, data portability and interoperability, third-party access obligations, and the banning of bundling/tying and MFN-like practices establish an institutionalized behavioral control regime beyond classic ex post tools. In this respect, the DMA systematically redefines the competition-regulation distinction by providing a normative framework for the hybrid approach that emerged with decisions such as Apple/ACM. This global trend indicates that competition authorities are moving away from being merely institutions that detect violations and are instead establishing behavioral obligations that have a lasting and prospective impact in specific markets. In Türkiye, traces of this transformation can be observed in the Ferrero-hazelnut market process, a limited and debatable example. The purchase quantity, reference price, and periodic purchase obligations accepted by the Competition Board for Ferrero were effectively negotiated by the undertaking on the grounds of market conditions and harvest quantity, and the applicability of the commitments was re-evaluated. The Competition Board's revision of the commitment package and reduction of the minimum purchase obligation, taking into account market conditions, shows that the supervisory process conducted through competition law is converging towards approaches discussed in the literature as "negotiated regulation through competition law" or "adaptive behavioral regulation". Therefore, although sectoral regulation exists through TMO (Turkish Grain Board), this decision suggests

		that the competition authority intervenes in market functioning through undertaking-specific, prospective, and adaptable behavioral obligations, and constitutes a valuable example in terms of discussions on "hybrid regulatory-competition regimes." In this context, this Communiqué aims to discuss the conditions and extent to which the boundaries between competition law and sectoral regulation can be flexible, the competition law instruments that are beginning to acquire ex ante status, and post-commitment monitoring and adaptation practices, in light of selected international and national examples.
51.	Legal Liability of Non-Dominant Undertakings Based on the Effects of Vertical Agreements Facilitating Collective Market Closure and Horizontal Cooperation	This paper aims to analyze the anti-competitive effects that may arise from vertical agreements involving non-dominant providers and to evaluate them from a competition law perspective. In this context, the legal framework concerning the cumulative effects of similar vertical restrictions imposed by multiple non-dominant undertakings will be examined. Within this framework, issues raised in case studies such as the Visa–Mastercard investigations [71], the subscription-based on-demand video (SVOD) [72]investigation, and the POS Services Decision , currently being conducted by the Competition Authority [73], will be theoretically addressed. Furthermore, the [74]legal and economic foundations of the argument raised in the Competition Board's investigations into pricing algorithm services offered by Trendyol, Hepsiburada, and Amazon – that services provided by non-dominant providers can facilitate coordination among the undertakings receiving the service – will be discussed. Regarding cumulative effects, the first focus will be on the legal status of vertical agreements that individually meet the group exemption requirements but have the potential to restrict competition due to their cumulative effects. According to Articles 13/1 of the Competition Law and 6/1 of Communiqué No. 2002/2, the Competition Board has the authority to revoke a group exemption if it is determined that the exemption has caused effects incompatible

[71]See the announcement dated 21.11.2024: https://haber.rekabet.gov.tr/haber/mastercard-ve-visa-hakkinda-sorusturma-acildi
[72]See the announcement dated 16.03.2025: https://haber.rekabet.gov.tr/haber/abonelik-temelli-istege-bagli-video-hizmeti-sunan-tesebbuslere-yonelik-on-arastirma-karara-baglanmistir
[73]Decision of the Competition Board dated 7.4.2022 and numbered 22-16/265-119.
[74]The investigation initiated by the Competition Board on October 19, 2023, with decision number 23-49/940-M, against e-commerce intermediary service providers to determine whether the Law No. 4054 on the Protection of Competition has been violated through the automatic pricing mechanism, can be found at https://www.rekabet.gov.tr/tr/Guncel/d-market-elektronik-hizmetler-ve-ticaret-2166a359be83ee118eca00505685da39 . Additionally, see the Competition Board's decisions dated October 3, 2024, with number 24-40/951-410 and October 3, 2024, with number 24-40/950-409, taken within the scope of this investigation.

		with the conditions stipulated in Article 5 of the Law. On the other hand, the legislation does not regulate whether the revocation of a group exemption has prospective or retroactive effect, or whether a violation can be determined for the past period if the exemption is revoked. This paper will present our suggestions on how to fill this gap. Following this, the conditions required for similar vertical restrictions imposed by multiple undertakings to be characterized as a horizontal agreement between undertakings or a joint abuse of dominant position will be evaluated from a legal and economic perspective. Within this framework, a general theoretical framework will also be outlined, highlighting the differences between horizontal agreement/concerted action and joint abuse of dominant position. Regarding the harm theory based on the possibility that services offered within the framework of vertical agreements may facilitate coordination among buyers, the scope of this harm theory, as concretized by the Competition Authority's algorithm investigations, will first be presented, and then the question of whether the current competition legislation is sufficient to address these concerns will be discussed. According to the Board, the proliferation of algorithmic pricing tools offered optionally by platforms to sellers operating on their platforms (if these tools allow sellers to match their prices to any benchmark [e.g., buy box price or the lowest price on the platform]) may lead to price rigidity in the market and facilitate price coordination among sellers. The noteworthy point here is that this harm theory is not based on a vertical restriction in the relevant vertical agreements or on concrete coordination among sellers. Rather, the harm theory is based on the possibility of future coordination that may arise under certain conditions due to a service provided. In our opinion, it is not possible to find a violation based on this damage theory within the framework of the current competition law legislation based on subsequent intervention. However, there is no obstacle preventing the Authority from conducting an investigation based on this damage theory to identify competitive concerns and to enable undertakings that consider these concerns reasonable to take measures to prevent future violations. It is assessed that the Authority's approach in algorithm investigations also confirms this finding. Given the ongoing investigations in these areas where the Competition Board's jurisprudence has not yet been fully established, this statement aims to provide an assessment framework that guides both theoretical discussion and practical application.

5 2.	Settlement and Commitment Procedures Constitute Rights for Enterprises ?	In Turkish competition law, settlement and commitment procedures are alternative dispute resolution mechanisms regulated in favor of undertakings in investigations concerning prohibited conduct under Articles 4 and 6 of Law No. 4054 on the Protection of Competition. This study addresses the question of whether these procedures constitute a right for undertakings or an opportunity within the discretion of the Competition Authority, in accordance with the principle of procedural economy. According to the Communiqué No. 2021/2 on Commitments, parties who wish to terminate an ongoing investigation with a commitment may request the submission of a commitment during the preliminary investigation or inquiry process and initiate the commitment process by submitting this request in writing to the Authority. However, after the parties submit their requests for commitments to the Authority, the Board evaluates the clear and serious nature of the relevant agreement, decision, or practice and other matters it deems necessary, and decides whether to initiate commitment negotiations or to reject the request for commitment and terminate the commitment process. This regulation shows that undertakings have the right to request the submission of commitments, but the acceptance of this request is at the discretion of the Board. The Regulation on Conciliation states that the Board may initiate the conciliation procedure upon the request of the parties to the investigation or ex officio, after the commencement of the investigation. In initiating the conciliation procedure, the Board considers the procedural benefits arising from the swift completion of the investigation process and any differences of opinion regarding the existence or scope of the violation. In this context, it may consider factors such as the number of parties to the investigation, whether a significant portion of the parties have applied for conciliation, the scope of the violation and the nature of the evidence, and whether it is possible to reach a common understanding with the parties regarding the existence and scope of the violation. The Board may accept or reject the conciliation requests of the parties to the investigation, and may also decide to invite other parties, if any, to the conciliation negotiations. A common point in both regulations is that undertakings have the opportunity to apply to benefit from these procedures. The Undertaking Circular uses the phrase "they may request to submit an undertaking," and the Conciliation Regulation uses the phrase "the conciliation procedure may be initiated upon the request of the parties to the investigation or ex officio." While these expressions grant undertakings a right to apply, they also give the Board broad discretionary power regarding the outcome of this application.

		The Board's authority to reject a request for a commitment, to terminate the settlement process for all or part of the parties, and to assess whether the commitment addresses competition issues, demonstrates that these procedures are designed as powers in favor of the Board. The provisions requiring the commitment to be proportionate to the competition issues, suitable for addressing these issues, achievable in a short time, and effectively implementable, and the stipulation that matters included in the interim settlement decision cannot be subject to negotiation by the settlement parties, reinforce the Board's decisive role in these processes. In conclusion, settlement and commitment procedures in Turkish competition law are not absolute and unconditional rights for undertakings, but rather procedural mechanisms that allow for application but whose conclusion is subject to the discretion of the Competition Authority. The primary purpose of these procedures is to resolve competition issues and to provide procedural benefits arising from the swift completion of the investigation process, and the Authority's power to manage these processes from the perspective of public interest and the effective application of competition law is paramount. Therefore, these procedures should be characterized not as rights in favor of undertakings, but rather as regulatory tools operating within the discretion of the Competition Authority and which can benefit undertakings under certain conditions. This study will examine the consequences of this situation in practice, taking into account the breadth of the discretionary power granted to the Competition Authority.
53.	Benchmarking Applications in the Labor Market: Perfectly Competitive Market Conditions and Competitive Concerns	In modern economic literature, the assumption that labor markets operate under “perfectly competitive” conditions is a theoretical ideal and has lost its validity in practice. Labor markets are far from perfect competition due to information asymmetry, search costs, and geographical and occupational mobility constraints. Under these conditions, firms referencing market data in wage setting processes serves a function that reduces information gaps and rationalizes wage policies. Indeed, in a survey of members of the Association of Human Resources Managers in the US, 87.6% of participants reported using benchmarking in salary setting. In fiscal year 2015, more than 95% of S&P 500 companies disclosed a group of firms they used to benchmark executive salaries. In this context, many companies adopt a comprehensive and multi-parameter approach in determining employee wages, taking market realities into account.

		Inflation rates published by institutions, minimum wage regulations set by the government, market conditions, employee performance evaluations, and corporate budget balances are the main parameters used in the wage determination process. Market research reports, on the other hand, are one of these parameters for many companies, but they are merely a supplementary tool that ensures the fair and objective determination of the welfare component. No company wants to waste its resources by paying excessively high wages compared to the market; those that pay too little risk employees leaving to find better conditions. The approach of competition authorities varies depending on factors such as the content, frequency, timeliness, and level of aggregation of information exchange. Benchmarking reports that are based on historical data, sufficiently aggregated, and presented in a way that prevents the identification of individual undertakings are generally considered less concerning from a competition law perspective. However, the focus of these reports on a specific point, such as the median wage, and the "targeting" of firms to this point, raises coordination concerns. On the other hand, the competition-enhancing effects of benchmarking practices should not be overlooked. Reducing information asymmetry enables small and medium-sized enterprises (SMEs) to make more effective wage-setting decisions by providing them with better information about market conditions. This paper aims to discuss this aspect through empirical evidence. For this purpose, the NBER study by Cullen, Li, and Perez-Truglia will be used as a central focus. This study, based on payroll data from 20 million American workers, showed that benchmarking did not have a negative impact on the average worker and even increased wages by 5-6.7%, particularly in low-skilled positions (pp. 6, 30-31). The theoretical model suggests that benchmarking can increase wages by intensifying competition in equilibrium (pp. 37-39). Therefore, according to the NBER study, wage benchmarking surveys conducted by independent third parties using aggregated, anonymous, and historical data function not as a mechanism to restrict competition, but as a mechanism to reduce information asymmetry in the labor market and improve employee welfare. In conclusion, this study will examine market research companies and the reports they prepare from a competition law perspective, attempting to answer the question of whether they are "a tool serving to equalize wages, or a pro-competitive mechanism that increases productivity and welfare in the labor market by reducing information asymmetry," and will question the existence of "perfectly competitive" conditions for labor markets.
54.		

	Blind Spots in Concentration Control: The Amazon–iRobot Case Study	Concentration control is, by its nature, an “ex ante” process: authorities evaluate harm theories (e.g., foreclosure, non-price loss, weakening of innovation) regarding a transaction that has not yet taken place. Therefore, the technical discussion of concentration control today often revolves around two types of failures: the cost of preventing a transaction that will not actually reduce competition (Type I/over-enforcement) and the cost of missing a transaction that will actually reduce competition (Type II/under-enforcement). Amazon's attempt to acquire iRobot, abandoned in early 2024 following signals of objection from EU and US authorities, [75]and iRobot's subsequent application for Chapter 11 protection in December 2025 and subsequent acquisition by its parent manufacturer Picea Robotics through a private transaction, have transformed this duality from an “abstract methodology” into a concrete policy debate. In its 2023 objection, the European Commission raised concerns that Amazon could use its online marketplace power to restrict rival robot vacuum cleaner manufacturers' access to its store, potentially negatively impacting price, quality, and innovation in the robot vacuum cleaner market. Our paper will focus primarily on the harm theories in the case, centering on the aforementioned transaction. The authorities' "harm theory" is shaped around the following points: The platform may exclude other sellers by using marketplace rules and visibility/access parameters; the merger may negatively impact competitors' margins, resulting in market closure. Within this context, the question of whether other competitive dynamics (particularly the pressure exerted by newer, more innovative, and cost-reducing players on incumbents) play a sufficient role in the authorities' opinion will be discussed. The second section will provide a more general assessment based on the aforementioned transaction. When read in conjunction with news that iRobot has long been weakened by increasing competitive pressure and that Chinese manufacturers (e.g., Roborock/Ecovacs) are becoming more aggressive in terms of price/quality, the analysis will examine how the evidence of “dynamic competition” should be positioned within the case [76]. In particular, it will be emphasized that an analysis that does not consider capital, innovative motivations, and digital market dynamics will lead to an assessment that appears correct within a static framework but is incomplete under dynamic conditions.

[75] IP_23_5990_EN.pdf
[76] Roomba maker iRobot files for bankruptcy, pursues manufacturer buyout | Reuters

		In conclusion, this study will evaluate the Amazon–iRobot story and treat it as an example demonstrating the need to manage two extreme risks simultaneously in merger control. The study will discuss the loss theories based on the platform power of large technology companies and the fact that the dynamics of scale/capital/innovation in rapidly evolving technological markets can quickly change the competitive structure.
55.	Competition Law Moving to Labor Courts?: An Examination in the Context of Labor Market Violations and Compensation Cases	Economic indicators related to labor markets show that the market is becoming concentrated, creating problems that are detrimental to workers. In the literature of economics and competition law, the thesis that competition law instruments should be used to solve economic problems related to labor markets is beginning to gain acceptance worldwide. However, the fact that labor markets have characteristic features compared to other goods or services markets creates significant debate regarding how competition law instruments should be applied to these markets. In our country, in addition to the investigations initiated by the Competition Board, the Competition Authority has published a Guide on Competition Violations in Labor Markets. As is known, the liability of undertakings for compensation is specifically regulated in the Law on the Protection of Competition ("the Law"). According to Article 57 of the Law, undertakings that are parties to agreements restricting competition or that abuse their dominant position are obliged to compensate those who suffer damages. The Guide on Competition Violations in Labor Markets does not provide a specific explanation on this issue. This study focuses particularly on Article 57 of the Competition Law. This study aims to examine, from a legal and practical perspective, the question of whether compensation claims arising from labor market violations under Article 57 can be heard in Labor Courts and how damages can be proven. Accordingly, the calculation of damages that may arise from labor market violations, the processes for claiming compensation, and the judicial stages of such cases will be discussed in detail, and the legal and practical difficulties that may be encountered in these processes will be carefully evaluated. In compensation claims arising from competition violations, the issue of calculating damages is one of the biggest challenges. Indeed, determining compensation that will compensate for the damage or cost caused to the relevant market, the players in that market, or consumers by a behavior that violates competition rules is quite difficult. The same problems apply to violations related to labor markets. Therefore, legal systems that want to expand the compensation procedure in competition law must focus on the problem of proof.

		According to economic research, the most fundamental financial consequence of competition law violations in labor markets for employees is the suppression of wages, directly or indirectly. This shows that damages can primarily be calculated based on "but-for-wage." In this case, damages are the difference between the wage the employee would have earned if the breach had not occurred and the wage they actually earned. Such calculations are particularly feasible in wage-fixing agreements between undertakings. On the other hand, determining damages in no-poaching agreements is more complex. These agreements may not directly affect wages, but rather lead to potential loss of earnings by restricting the employee's potential for job changes and career advancement. Therefore, translating the problems arising from the breach into a quantifiable basis presents significant challenges. In this regard, there are also suggestions in legal doctrine to determine a fixed amount of damages for such agreements. Another fundamental legal issue addressed in this study is the procedure of the litigation process. According to Law No. 7036 on Labor Courts, Labor Courts have jurisdiction over all legal disputes arising from the employment relationship between employees and employers. Given the absence of explicit limitations in the law and the fact that damages arising from competition violations stem from the employment relationship, it is generally assumed that compensation claims filed by employees against their employers will be heard in Labor Courts. However, the main issue lies not in the debate over the competent court, but rather in how the complex nature of competition law violations can be integrated into the traditional procedural and evidentiary mechanisms of Labor Courts. Consequently, this study aims to provide a structured legal roadmap outlining concrete trial stages and evidentiary procedures for the effective handling of such cases in Labor Court practice.
56.	An Assessment of Banks' Gatekeeper Role in Data and Infrastructure from a Competition Law Perspective: Payment Services Regime and Open Banking Perspectives Following the Softtech Decision	The parameters of competition in financial services markets are fundamentally transforming with the rise of digitalization and data-driven business models. Within the conventional banking structure, banks' control over payment infrastructure and customer financial data has long been considered a natural consequence of technical and regulatory necessities. However, this control has become a decisive factor in the entry and effective operation of payment institutions and financial technology companies in the market, necessitating a reassessment of banks' role in the market from a competition law perspective. *the gatekeeper approach* , which has recently gained prominence in competition law . The debates that arose in the payment services sector following the Competition Board's Softtech decision, and the subsequent legislative changes, necessitate an assessment of the relationship between banks and payment institutions not only from a purely

		sectoral regulatory perspective but also in light of competition law principles. In this context, the paper addresses whether the obligation imposed on banks by Article 8 of the Payment Services Regulation to access systems and infrastructure constitutes a competitive intervention aimed at limiting the banks' *gatekeeper position.* This study analyzes whether banks' practices of delaying access to payment infrastructure, restricting it on technical or security grounds, creating de facto discrimination among equally positioned undertakings, or rendering access economically meaningless, constitute exclusionary effects under competition law. In this context, it reveals how classic competition law violations such as price squeezing, discriminatory practices, tying, and innovation obstruction can manifest in the payment services market. The statement also notes that fintech companies, with their more flexible and innovative structures compared to banks, have become the primary driving force behind innovation in digital financial services. Therefore, it views the bank-fintech relationship not merely as a vertically competitive relationship where banks are positioned above each other, but also as a relationship where fintechs constitute a complementary force for banks. While banks strengthening their own ecosystems by leveraging the innovative capacity of fintechs can lead to increased competition, it also carries the risk of further concentration of market power when combined with banks' existing data and infrastructure dominance. In this context, it is important that regulations regarding access to payment services and data sharing are designed not with an approach that positions fintechs as weak market actors requiring protection, but with a perspective that empowers them as independent economic actors capable of establishing more horizontal, functional, and competitive relationships with banks . The risk that excessive and rigid regulatory interventions, instead of effectively weakening banks' *gatekeeper* role, may indirectly restrict competition by freezing intra-market relationships and hinder the scaling of innovative actors should not be ignored. Therefore, the regulatory framework needs to be interpreted and implemented in a way that allows market dynamics to function healthily, rather than shaping competition. In conclusion, the statement argues that banks' control over payment infrastructure and financial data should be viewed not as an inevitable consequence of technical or regulatory necessities, but as a structural force that shapes and restricts competition. Within this framework, regulations concerning access to payment services and data sharing should not remain merely norms formally limiting banks' *gatekeeper* role; they must also be interpreted and

		overseen in a way that prevents discrimination and exclusionary effects . Otherwise, the possibility that regulations introduced to increase competition may indirectly reinforce banks' market power should not be overlooked.
57.	When Does Disparagement Constitute a Violation? The Intersection of Unfair Competition and Competition Law: Disparagement	The European Commission has fined pharmaceutical manufacturer Teva €462.6 million for a systematic defamation campaign involving the dissemination of misleading information about the equivalence, safety, and efficacy of competing products [77]. This effectively places defamation, long considered within the realm of unfair competition law, directly under the category of abuse of dominant position. However, this relatively new type of infringement raises new questions about when defamation constitutes abuse of dominant position. Investigations by member state competition authorities and the UK Competition Authority ("CMA") also indicate that defamation will likely be central to future competition law debates. Recently, the European Commission's decision regarding Teva (Copaxone), the parallel investigations into Vifor conducted by the Commission [78]and the CMA [79], and the debate surrounding defamation in the pharmaceutical market have highlighted the fact that this is not an action unique to these markets. National authorities are also investigating similar cases in the taxi driver, ambulance services, and terrestrial television broadcasting markets. However, the Teva and Vifor investigations are central to the assessments they contain regarding the criteria for a defamation violation. The decisions specifically address criteria such as the market impact of communications, whether the disseminated information is objectively misleading, and the exclusionary potential of the conduct. The Teva decision is noteworthy for being the first time a heavy administrative fine has been imposed for defamation, while the Vifor case demonstrates that companies will have to design their communication strategies taking into account competition law risks. These decisions raise a critical question: When do communications that disparage a competitor's product or comment on the quality of a competitor's product cross the line and constitute an anti-competitive behavior violation? It is possible to draw some conclusions about this boundary from the Commission's decisions. Accordingly, for disparaging a competitor's product to be considered an abuse of a dominant position, three conditions must be met: (i) the company disseminates objectively misleading or false information that is likely to damage the reputation

[77]European Commission, *Case AT.40588 – Teva (Copaxone)*
[78]https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3907
[79] https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3907OV.UK

		of the competitor's product; (ii) the disseminated information has a negative impact on competition and, in particular, has the potential to delay the entry of the competitor's product into the market; and (iii) the conduct is not based on a valid and objective justification. Conversely, disparaging behavior that does not contain false statements and has no potential to affect consumer demand does not constitute an anti-competitive behavior violation. In this context, the problems that the simultaneous occurrence of a competition law violation and unfair competition actions may create in terms of implementation and enforcement processes emerge as a separate topic of discussion. While competition authorities assess whether such behavior constitutes a violation within the scope of their investigations, the determination of unfair competition is mostly made by general courts. The relationship between courts and authorities regarding the simultaneous examination and enforcement of the same action by different branches of law constitutes a fundamental point of discussion. Within this framework, this study aims to analyze when communication strategies based on denigrating competing products constitute a violation of competition law; to examine the tests that have become prominent in case law; and to address questions regarding the application and enforcement processes arising from the fact that the action constitutes both a violation of competition law and unfair competition.
58.	Data in Competition Law: A Passing Fad or a New Generation Essential Element?	The importance of data for digital platforms is undeniable, and this is frequently mentioned in recent academic studies and competition authority decisions. Recent Competition Board decisions highlight data-based violations and concerns, which can be summarized as the potential for competitors to lose their competitiveness if established undertakings combine their datasets or use them in different markets. These concerns raise legitimate questions about whether data will go beyond being merely a source of market power for undertakings and become a necessary element. The Competition Board's decisions regarding Nadirkitap [80]and Sahibinden [81]highlighted the importance of data portability on digital platforms, emphasizing that if user data remains confined to a single platform, it will be difficult

[80]Decision of the Competition Board dated 07.04.2022 and numbered 22-16/273-122
[81]Competition Board's decision dated 17.08.2023 and numbered 23-39/754-263

		for competing platforms to operate. The Meta decision [82], the Sahibinden [83]interim injunction, and the Kariyer.net investigation, [84]on the other hand, raise concerns that the use of data aggregation and large datasets by established companies in related markets will hinder the entry and survival of competing companies. These decisions reflect the concern about the creation of an asymmetric competitive advantage that competitors cannot access. The Commission, while establishing DMA as a strict rule for allowing data transfer in digital marketplaces, makes data aggregation conditional on user consent. The Apple/Shazam [85]and Meta/Customer [86]decisions also demonstrate the critical nature of data in these marketplaces. All of this highlights concerns that data is seen as an indispensable element for competition in digital markets, and that this data usage could limit effective competition in the market. The essential element doctrine defines assets or facilities without which a competitor or customer cannot operate, and in such cases, it stipulates that the essential element should be made available under certain conditions. Although the Competition Board or any other competition authority has not yet made an assessment in its decisions that data is an essential element and should be made accessible to competitors [87], the question of whether existing decisions and the concerns and obligations in these decisions lead us towards the essential element doctrine in the next stage is an important one. Another condition for the essential element and refusal to enter into a contract is, as is known, the likelihood that the act of refusal will eliminate effective competition in the sub-market. In particular, the interim injunction from Sahibinden and the decision regarding Meta, and the ongoing investigation into Kariyer.net that has been made public, address the disruptive effects of data on competition not exactly in the sub-market, but in related markets. In this context, the extent to which the criteria and conditions described in the relevant Guidelines regarding the mandatory element doctrine, which is more relevant to infrastructure sectors, can be applied to a data-driven mandatory element assessment emerges as a separate topic of discussion. In conclusion, this study aims to develop both a theoretical and practical framework regarding whether data is on its way to being recognized as a “new essential element” in the digital economy, and how established criteria for refusal to contract breaches can be interpreted in the context of data. The study aims to contribute theoretically and

[82]Competition Board's decision dated 07.11.2024 and numbered 24-45/1053-450
[83]Decision No. 25-02/47-29 of the Competition Board dated 16.01.2025
[84] The Competition Authority has launched an investigation into Kariyer.Net Electronic Publishing and Communication Services Inc. (Last accessed: 19/12/2025).
[85]CASE M.8788 – APPLE / SHAZAM, see https://ec.europa.eu/competition/mergers/cases/decisions/m8788_1279_3.pdf (Last accessed: 19/12/2025)
[86]Case M. 10262-META (FORMERLY FACEBOOK) / KUSTOMER, see https://ec.europa.eu/competition/mergers/cases1/202242/M_10262_8559915_3054_3.pdf (Last accessed: 19/12/2025)
[87] Although the EU Data Act introduces regulations aimed at data portability and the dissemination of data, it is not a regulation that focuses on competition law concerns.

		practically to the multifaceted discussions arising at the intersection of competition law, data protection, and sectoral regulations.
59.	Striking Findings from Turkish and International Competition Authorities	This study examines the risks posed by algorithmic pricing practices, which are becoming increasingly common in online marketplaces, from a competition law perspective, within a conceptual, comparative, and empirical framework, considering both Turkish and foreign practices. With the acceleration of digitalization, pricing processes have become largely automated; pricing algorithms have become central to data-driven decision-making mechanisms. While this transformation has increased efficiency and productivity for businesses, it has also brought about new problem areas in competition law that challenge the limitations of classical analytical tools. The first part of this study explains the concepts of algorithms and algorithmic pricing; it highlights the differences between rule-based algorithms and artificial intelligence or machine learning-based algorithms. Within this framework, the study discusses why the capacity of algorithms to develop strategies and adapt to competitor behavior without human intervention warrants special scrutiny from a competition law perspective. Specifically, it analyzes how algorithmic pricing systems can facilitate violations such as price-fixing agreements, collect-and-distribute cartels, tacit collusion and concerted action risks, resale price fixing in vertical relationships, and abuse of dominant position, based on reports from the OECD and national competition authorities. Additionally, the study addresses the challenges and proposed solutions for competition authorities to identify and investigate competition law concerns arising from pricing algorithms. The second section examines international competition law practices related to algorithmic pricing. Using examples primarily from the US and Asia, such as the Trod–GBE, Las Vegas Rainmaker, RealPage, Cocoa Mobility, and Amazon (Project Nessie) cases, it demonstrates that algorithms can facilitate anti-competitive agreements, intensify information exchange, and enable the abuse of dominant positions. The examined decisions show that algorithmic coordination can have cartel-like effects even without explicit agreement, highlighting the need for a reassessment of the concepts of "intent" and "purpose" in competition law. The standard of proof in investigating violations caused or facilitated by pricing algorithms is discussed. The examined decisions are evaluated comparatively, and the potential implications of international practices regarding the relationship between pricing algorithms and competition law for Türkiye are discussed.

		The third section examines the legal framework and practices in Turkey; the opportunities offered by Articles 4 and 6 of Law No. 4054 on the Protection of Competition regarding algorithmic pricing are discussed. The investigations and commitment decisions made against Trendyol and Hepsiburada are considered the first concrete applications of algorithmic pricing in Turkey. Furthermore, empirical analyses using price data from leading marketplaces in Turkey reveal price convergence, price rigidity, and the guiding influence of large sellers' prices on smaller sellers. The impact of these cases on demonstrating the Competition Board's perspective on the issue is also evaluated. The fourth chapter addresses policy recommendations and regulatory needs regarding how pricing algorithms should be handled within the context of Turkish competition law, in light of the discussions included in this study. Possible methods for managing the challenges posed by the compliance of pricing algorithms with the competition law framework are also evaluated. In conclusion, the study reveals that algorithmic pricing is not merely a technological innovation, but a structural phenomenon transforming the application of competition law. While the current legislation in Türkiye is sufficient in terms of fundamental principles, it concludes that algorithmic transparency, data access, technical oversight capacity, and the development of guiding principles are necessary for effective implementation.
60.	Ius Defensionis Sacrum Est – The Right to Defence is Sacred, But Can It Be Postponed for Competition Investigations? New Debates on the Limits of Attorney-Client Confidentiality in Competition Law.	Attorney-client privilege has gained importance, both theoretically and practically, in a period marked by increased competition law investigations and broad interpretations of on-site inspection powers, highlighting the delicate balance between the right to defense and administrative effectiveness. Indeed, in the EU, during the assessment process initiated regarding Council Regulation 1/2003, the European Commission [88]published a "Position Paper" on the consideration of confidentiality for in-house lawyers, reopening the debate on the place and limits of attorney-client privilege within competition investigations. This paper will examine the approaches to attorney-client confidentiality in Turkish and EU competition law, and analyze the structural and normative differences between the two systems.

[88]European Commission, *Attorney-Client Confidentiality in Competition Law Investigations: Has the Status of In-House Lawyers Changed?* (Competition Policy Brief, No. 1/2025, November 2025), https://competition-policy.ec.europa.eu/document/download/890dcc49-5fd7-4e48-a9f4-698ac9bdfe08_en

		This study will focus on the place of attorney-client confidentiality within the legal framework in Turkey and its applicability in competition investigations, as well as the direction given to the Competition Authority by past administrative court decisions on the subject. Specifically, [89]it will initiate a discussion on the evaluation criteria addressed in the Constitutional Court's decision of January 18, 2024, and their implications for the position of attorneys in competition investigations. Indeed, the Constitutional Court, in its decision , did not only address attorney-client confidentiality in relation to the challenged legal [90]provision, but also emphasized the necessity of strengthened protection by focusing on the legal nature and requirements of the "practice of the legal profession" in general. On the other hand, it is observed that the practice of on-site inspections in competition investigations has expanded to include legal consultancy activities in preparation for the defense. In this context, the use of audit and risk reports prepared by independent lawyers within the framework of compliance programs as investigative material and evidence reopens the debate on the limits of attorney-client confidentiality. Such practices can create problems under the Constitution and the ECHR, not only in terms of attorney-client confidentiality but also in terms of the prohibition against coercion to provide evidence against the defendant. In EU competition law, attorney-client confidentiality is addressed within a narrow and structural framework, in line with the CJEU's [91]AM&S [92]and Akzo [93]case law. In the EU approach, confidentiality covers only communications with independent, external lawyers for the purpose of exercising the right of defense; internal lawyers are excluded from this protection on the grounds that they do not possess the necessary "full independence" due to their employment relationship. The Commission maintains this limited approach for policy reasons such as the effectiveness of investigations, the prevention of the risk of abuse, and the difficulties in separating legal and commercial communications. Comparative analysis shows that the difference between Turkish and EU approaches lies in the legal basis and function of confidentiality. While EU competition law relies on a structural independence test that prioritizes the

[89]Constitutional Court, E.2021/28, K.2024/11, Official Gazette 3.4.2024-32509
[90]Law No. 5549 on the Prevention of Money Laundering
[91] European Union Court of Justice
[92]Akzo Nobel Chemicals and Akcros Chemicals v. Commission judgment of 14 September 2010 (C-550/07 P, EU:C:2010:512)
[93]AM & S Europe v. Commission decision of 8 May 1982 (155/79, EU:C:1982:157)

		effectiveness of the administrative sanctions regime, the Constitutional Court of Turkey has adopted an interpretation that centers fundamental rights and functionally expands confidentiality. This paper will discuss the potential impact of this divergence on Turkish competition law practices and will offer a current assessment of how the Competition Authority's on-site inspection practice can be reshaped in light of fundamental human rights and, consequently, the decisions of the Constitutional Court and the European Court of Human Rights. In this context, the potential implications for Turkey of the discussions initiated in the EU regarding the revision of Council Regulation No. 1/2003 will be examined, and suggestions will be presented, based on EU examples, for the effective use of the right to defense in the investigations of the Competition Authority.
61.	The Problem of Cross-Management and the Examination of Minority Share Transfers from a Competition Law Perspective	In competition law, the assessment of structural relationships between undertakings has long progressed in parallel with the concept of devolution of control. However, recently, the effects of minority and cross-shareholdings from a competition law perspective have been scrutinized globally. The approach that minority and cross-shareholdings, as well as cross-management relationships, can create coordination risks between undertakings, even in the absence of devolution of control, is becoming increasingly evident, particularly in US and European Union practice. The lawsuits against BlackRock and similar asset management companies in the US, [94]and the assessments presented in the Delivery Hero/Glovo decision in the European Union [95], indicate that such structural connections can create a fertile ground for anti-competitive coordination. In US practice, debates center around the question of whether cross-minority shareholdings, even without direct control, can indirectly influence the production, pricing, and strategic decisions of undertakings. Within this framework, from a competition law perspective, the key questions are under what conditions shareholdings classified as "passive investments" lose this status and become a tool influencing competitive behavior, and what elements should be used to assess coordination risk. In the European Union, the Delivery Hero/Glovo decision demonstrated that governance rights, veto mechanisms, and access to information associated with minority shareholding can, over time, transform into a multi-layered coordination structure that eliminates competition. The decision shows that holding a minority stake in a competitor

[94]United States District Court for the Eastern District of Texas, Case 6:24-cv-00437-JDK; for *the statement of interest submitted by the Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ)* , see https://www.ftc.gov/system/files/ftc_gov/pdf/StatementofInterest-TexasvBlackRock.pdf

[95]European Commission decision no. EC.40795 (Delivery Hero/Glovo) dated 02.06.2025, https://ec.europa.eu/competition/antitrust/cases1/202530/AT_40795_1262.pdf

		is not inherently illegal; however, such a structure can pose serious risks under competition law if it allows for de facto anti-competitive practices through the sharing of competitively sensitive information and the manipulation of commercial decisions. In Turkey, the approach adopted by the Competition Board in the Fiat Chrysler Automobiles NV – Peugeot SA [96]and Tofaş – Stellantis [97]decisions provides an important basis for how structural connections without a transfer of control can be addressed. Although these decisions did not directly examine minority shareholdings or cross-management relationships, it is evident that the Board considered permanent ties and potential coordination channels between undertakings through structural commitments. This situation raises the question of which competition law instruments and within what limits minority shareholdings and cross-management relationships can be monitored in the future in Turkish practice. This paper will examine these assessments, which are prominent in US and European Union decision-making practice, to discuss the criteria by which minority and cross-shareholding and cross-management structures become problematic from a competition law perspective, and how Turkish practice may evolve in this direction.
62.	The Unseen Risk in Mergers and Acquisitions: Implications of Universal Succession in EU and Turkish Competition Law	The effective application of competition law rules is closely linked to the penalty policies of competition authorities. [98]On the other hand, ensuring legal certainty is essential for businesses. In this regard, the balance is established through the principle of the individuality of penalties.[99]

[96]Decision No. 20-57/794-354 of the Competition Board dated 30.12.2020
[97]Decision of the Competition Board dated 18.04.2025 and numbered 25-15/359-172
[98]Ersoy Zengin, B., " *An Exception to the Principle of Personal Imposition of Penalties in Competition Law Violations: The Principle of Economic Continuity* ", Competition Journal, Vol. 21, No. 2, December 2000, p. 7.
[99]Article 20 of the Turkish Penal Code No. 5237 stipulates that criminal responsibility is personal and that no one can be held liable for the actions of a third party.

		According to the principle of individual responsibility, each undertaking is held liable only for its own unlawful acts. However, in practice, this principle is not absolute, [100]and exceptions arise, [101]particularly with the principle of economic succession (continuity) that has developed in European Union (" **EU** ") competition law .[102] The principle of economic succession comes into play when the undertaking that committed the infringement withdraws from the market or its legal personality ceases to exist. [103]In this case, the newly established or acquiring undertaking (" **Joint Undertaking** ") that continues the economic activity can be held responsible for the past infringements of its predecessor. In EU practice, the scope of this principle has been expanded by court precedents and European Commission decisions. In particular, liability can be attributed to a Joint Enterprise due to the principle of economic succession in cases such as (**i**) the termination of the legal entity, [104](**ii**) the undertaking actually ceasing its (economic) activities, [105](**iii**) transfers made to evade liability, [106](**iv**) intra-group business lines or asset transfers, and [107](**v**) intra-group transfers to third parties prior to the takeover [108]. In determining the amount of fines that may be imposed for competition violations by a joint undertaking, issues such as recidivism and the extension of the duration of the violation based on the principle of succession may also come into play. of the Competition Board (" **Board** ") is examined, the liability of the Joint Undertaking is considered within the framework of the principle of universal succession in the Turkish Commercial Code No. 6102. According to [109]the

[100]Toroslu, N. (2007), General Part of Criminal Law, Savaş Publications, 9th Edition, Ankara, p. 171.
[101]De Stefano, G. (2011), " *General court rules on successor liability and apportionment of group liability in the gas insulated switchgear cartel* ", Journal of European Competition Law & Practice: 2 (4) p. 345.
[102]It has been observed that in decisions made by authorities within the European Union, the concept of economic succession is addressed broadly, encompassing the principle of legal succession as well.
[103]Brown, A. and Schonberg, M. (2013), " *Widening the net: the general court extends the principle of successor liability in EU competition law* ", European Competition Law Review: 34 (1), p. 2.
[104]Joined Cases T-259/02 to T-264/02 and T-271/02, *Raiffeisen Zentralbank Österreich AG v Commission,* [2006] ECR II-5169, para. 22.
[105]Case C-280/06, *Autorità Garante della Concorrenza e del Mercato v ETI SpA* and others [2007] ECR I-10893, para. 40.
[106]Case T-9/99 *HFB and Others v Commission* [2002] ECR II-1487, para. 106-107.
[107]Case C-511/11 *Versalis SpA v Commission* [2013].
[108]Case C-434/13 *Commission v Parker Hannifin Manufacturing and Parker-Hannifin* [2014].
[109]*decision* dated 24.11.2005 and numbered 05-79/1082-309, issued following the Council of State's annulment decision .

		Council of State, [110]when transferable rights and obligations are transferred to another person, the Joint Undertaking is held fully liable for all rights and obligations of the undertaking being transferred.[111] Although the Board's decisions regarding the liability of the Joint Undertaking do not explicitly mention the concept of " *economic succession* " as it exists in EU law, it has consistently adopted the approach that, in parallel with economic succession, a change of ownership of the infringing undertaking does not eliminate the liability of the Joint Undertaking.[112] Indeed, the Board's *Doğuş Otomotiv* ,[113] In decisions regarding *salary promotions* [114]and *tourism agencies* [115], it has been accepted that the Joint Enterprise fully assumes the rights and obligations of the transferred enterprise, and therefore, liability arising from competition violations generally passes to the Joint Enterprise. It could even be argued that liability can be attributed to the undertaking under the principle of universal succession, even in terms of procedural penalties. In the *Novonesis* decision, the Board did not provide the requested information on the grounds that the contracts corresponded to the pre-merger period; [116]the Board, in accordance with the principle of universal succession, rejected the defense regarding the unproven information and documents.[117] In addition, in acquisition transactions, it is important to determine whether there is a structural link between the parties in terms of human resources and material assets. In the Board's *Yemeksepeti* decision, [118]it was stated that if there is no interruption in the undertaking's activities and identity, the Joint Undertaking can be held responsible for

[110]The 13th Chamber of the Council of State, with its decision dated 25.03.2008 and numbered E. 2006/2437, K. 2008/3350, and the decision of the Administrative Litigation Chambers Board of the Council of State dated 06.03.2013 and numbered E. 2008/3084, K. 2013/793.
[111]Indeed, similar rulings were made in the decisions of the 7th Criminal Chamber of the Court of Cassation dated 10.07.2002, E:2002/11516, K:2002/10931 and 04.03.2004, E:2003/12740, K:2004/2989. See Gündüz H. (2013), *Administrative Fines Applied in Competition Law* , Competition Authority, Postgraduate Thesis Series No: 21, Ankara, p. 82.
[112]The Board's decisions dated 09.02.2006 and numbered 06-11/143-33 regarding *Kastamonu Intercity Passenger Transportation* ; 04.03.2021 and numbered 21-11/155-64 regarding *İzmir Container;* 25.03.2021 and numbered 21-17/208-86 regarding *Cappadocia Hot Air Balloon Operators* ; and 06.01.2022 and numbered 22-01/6-3 *regarding Şişecam* .
[113]Board's decision dated 28.01.2010 and numbered 10-10/90-40 regarding Doğuş *Otomotiv* .
[114]The Board's decision dated 07.03.2011 and numbered 11-13/243-78 regarding *Salary Promotions* .
[115]*regarding Tourism Agencies* , dated 21.11.2016 .
[116]Board decision No. 25-13/297-140 dated 27.03.2025 regarding *Novonesis* , paragraph 16.
[117]Board decision No. 25-13/297-140 dated 27.03.2025 regarding *Novonesis* , paragraphs 19-20.
[118]*regarding Yemeksepeti ,* dated 31.03.2022 and numbered 22-15/254-112 , paragraphs 82-85.

		previous violations; the continuity and integrity of the undertaking were taken as the basis for the transfer of responsibility. When all these aspects are considered together, it can be said that the Board's decisions are consistently in line with the principle of universal succession in commercial law and that the exceptions [119][(**iv**) and (**v**)] that are subject to criticism in EU practice are not encountered. However, although legal certainty is ensured by the current case law, questions that may arise in practice regarding the transfer of behavioral and/or structural commitments or measures complied with by the transferred undertaking to the Joint Undertaking are noteworthy. Within this framework, the theoretical foundations of universal succession in competition law and its development in EU and Board practices will be examined; the scope of the principle, the transfer of responsibility, legal certainty, and the economic and legal risks in mergers and acquisitions will be discussed. Finally, potential areas for improvement in the Board's practice will be evaluated.
63.	Competition Concerns Arising from Algorithmic Pricing Mechanisms	As a result of the digitalization trend brought about by technological advancements, businesses have begun to use algorithms in a wide variety of areas in the services they offer, such as pricing mechanisms, market forecasting, and service improvement. [120]Among these algorithms, pricing algorithms automate the decision-making processes of businesses, increasing transparency in the market and facilitating competitors to monitor each other, collude in pricing processes, or reach agreements through algorithms.[121] In general, algorithms can help (i) stabilize cooperation by enabling undertakings to detect and respond to pricing deviations through automated pricing systems based on existing pricing data, and (ii) facilitate cooperation among undertakings by creating a [122]*hub-and-spoke mechanism that facilitates information exchange, using the same software that determines pricing decisions.* The increasing use of algorithms also raises concerns about the growth of these collaborations, and these concerns are reflected in the policy reports and decisions of competition authorities.

[119]Dyekjær-Hansen K. and Høegh, K. (2003), *Succession of liability for competition law infringements with special reference to due diligence and warranty claims* , European Competition Law Review: 24 (5), p. 206.
[120]Trendyol (03.10.2024, 24-40/950-409), money. 16.
[121]Teber Karabudak, Pelin, 2022, *Anticompetitive Agreements Through Algorithmic Strategies* , Competition Authority Expert Thesis Series, p. 19.
[122]Trendyol (03.10.2024, 24-40/950-409), money. 24.

		Reports by competition authorities examining algorithmic pricing mechanisms, such as the report prepared by the British competition authority, the Competition and Markets Authority (" [123]**CMA "), on pricing algorithms** , and the joint study by the German competition authority, the Bundeskartellamt, and the French competition authority, the Autorité de la concurrence, on the impact of algorithms on competition, [124]as well as the OECD's recent paper entitled " *Algorithmic Competition* ," which addresses algorithmic competition and the approaches of competition authorities on this issue, reveal that competition concerns caused by algorithms are increasing. The Turkish [125]Competition Authority, while not explicitly referring to automated pricing systems in its Final Report on the E-Marketplace Platforms Sector Review, also points to the growing awareness that digital platforms can create new avenues for coordination, citing the Eturas decision regarding pricing algorithms in the European Union. In addition to policy articles, algorithm-based pricing mechanisms have also been the subject of various decisions by competition authorities regarding competition violations. In this context, the Lithuanian competition authority's *Eturas* decision, the first in European Union competition law to address algorithms, imposed administrative fines on travel agencies using Eturas, an online booking system for travel agencies, because it fixed the discount rates that travel agencies could offer to customers through an algorithm. This decision was later reviewed by the European Court of Justice, which confirmed that the conditions applied by the platform could lead to an anti-competitive agreement between the platform and users. [126]Similarly, the Spanish competition authority, in its investigation into the tobacco market, found that undertakings were sharing total sales figures with each other through the distributor company's software and imposed fines. Apart from these decisions, there is [127]*the Realpage decision* [128]of the District Court of Columbia and *the Ageras decision* [129]of the Danish competition authority. the decision, the CMA's *Trod – GBE*

[123]British Competition Authority (Competition and Markets Authority), 2018, *Pricing Algorithms: Economic Working Paper on the Use of Algorithms to Facilitate Collusion and Personalized Pricing* .
[124]Bundeskartellamt und Autorité de la concurrence, 2019, *Algorithms and Competition.*
[125]OECD, 2023, *Algorithmic Competition* , para. 7.
[126]Case C-74/14 (2016), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62014CJ0074 , (Last accessed: 18.11.2025).
[127] https://www.fieldfisher.com/en/services/consumer-enforcement/competition-connect-blog/spains-competition-authority-smokes-out-cigarette-cartel-facilitated-by-online-software (Last accessed: 18.11.2025).
[128]District of Columbia Supreme Court, Case No. 2023 CAB 6762, https://business.cch.com/ald/DistrictofColumbiavRealPageInc792024.pdf (Last accessed: November 18, 2025).
[129]Danish Competition Authority, Ageras A/S, Case 23-09413 (18.03.2024) https://en.kfst.dk/nyheder/kfst/english/decisions/20200630-danish-competition-council-ageras-has-infringed-competition-law (Last accessed: 18.11.2025).

		decision, [130]*Uber* [131]seen in America the case and the Spanish competition authority's *MLS*[132] It has been determined that restrictive collaborations between undertakings have been established through pricing algorithms in various decisions, particularly in the aforementioned ruling. addressed pricing algorithms in its 2023 decision regarding cosmetic retailers , assessing that [133]*the buybox* mechanism used by businesses could lead to coordination among sellers and constitute a "collect and distribute" cartel. Similarly, claims that the buybox mechanism raises competition concerns have been addressed in recent Trendyol [134]and Hepsiburada [135]decisions. Accordingly, it was assessed that the "Buybox Price Matching" function implemented by the platforms aligns sellers' prices with the price of the buybox winner, transforming the platform into a tool for coordinated pricing among competitors. The investigation resulted in commitments for Hepsiburada and Trendyol, while it is still ongoing for Amazon.[136] Within the scope of this communiqué, the competitive concerns arising from algorithmic pricing mechanisms, which are increasingly scrutinized by competition authorities due to technological advancements and digitalization, will be examined in light of the decisions of the Competition Board and other competition authorities, and the points that businesses should pay attention to in their use of algorithms will be emphasized.
64.	Has Pandora's Box Been Opened? The Economic Foundations of Competition Law Intervention in the Television and Film Industry.	The recent investigations and decisions initiated by the Competition Board regarding various levels of the television and film industry have brought back to the forefront the question of what economic problems these markets present from a competition law perspective. This paper aims to examine these developments from an economic analysis of law, discussing whether there is a market power problem or market failure in the sector, and whether competition

[130]British Competition Authority, Trod-GBE, Case 50223 (12.08.2016) https://assets.publishing.service.gov.uk/media/57ee7c2740f0b606dc000018/case-50223-final-non-confidential-infringement-decision.pdf (Last accessed: 18.11.2025).
[131]Federal Court for the Southern District of New York, Spencer Meyer v Travis Kalanick, 15 Civ 9796; 2016 US. Dist. Lexis 43944 https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2015cv09796/451250/37/ (Last accessed: 18.11.2025).
[132]Spanish Competition Authority, Real Estate Brokers, S/0003/20 https://www.cnmc.es/sites/default/files/editor_contenidos/Notas%20de%20prensa/2021/20211209_NP_Sancionador_Proptech_eng.pdf (Last accessed: 18.11.2025).
[133]Competition Board's decision on Cosmetics Retailers (31.08.2023, 23-40/768-270).
[134]Competition Authority decision on Trendyol (03.10.2024, 24-40/950-409).
[135]Competition Board's decision regarding Hepsiburada (03.10.2024, 24-40/951-410).
[136]Decision No. 23-49/940-M of the Competition Board dated 19.10.2023.

		law intervention or ex ante regulation is necessary to address these problems, within the framework of current Competition Board, EU, and US decisions. Production, distribution, broadcasting (television and on-demand platforms), cinemas, and acting and management activities form interconnected but economically distinct sub-markets. The Competition Board's findings in the Ay Yapım–Med Yapım and MADD cases regarding the sharing of fee information and joint distribution structures among producers; the examination of long-term exclusive production-broadcasting relationships in the Star TV–OGM Prodüksiyon decision; investigations into digital platforms (Netflix, Amazon Prime, BluTV, etc.); and examinations of management agencies demonstrate that the Board considers the sector in its horizontal, vertical, and labor market dimensions. In this context, investigations into the cinema market also exemplify the assessment of the economic importance of vertical exclusion risks and physical access points that may arise during the screening phase. Concentration trends in production and distribution, long-term and extensive exclusivity agreements, information asymmetries, barriers to entry, and network effects are considered potential market failures from the perspective of the economic analysis of law. The question of whether television channels and digital streaming platforms have become indispensable bottlenecks in terms of audience access is particularly important. If certain channels or platforms position themselves as indispensable distribution channels for content producers, it is necessary to evaluate economically whether this structure generates market power and whether it restricts competitive processes. This debate gains even more importance in an environment where the definition of a market is becoming increasingly blurred. Traditional television broadcasting, video-on-demand platforms (Netflix, Disney+, Amazon Prime), and social media platforms offering user-generated content (YouTube, Instagram, TikTok) compete for the limited time and attention span of viewers. This raises questions about whether narrow market definitions based solely on content type or distribution technology are sufficient for market power analyses, and whether a broader, "viewer attention-focused" market approach is needed. The announcement will also relate global developments to this framework. Netflix and Paramount's attempts to acquire Warner Bros. Discovery reveal a trend towards the concentration of content production, distribution, and platform ownership in a single entity; it raises the question of whether competition law instruments alone will be

		sufficient if such structures create lasting market power. In this context, the Board's investigations, conducted simultaneously at different levels in the sector, can be considered an example of an approach aimed at identifying potential risks at an early stage. Finally, the paper will address the boundary between competition law intervention and ex ante regulation from the perspective of an economic analysis of law. While competition law offers a flexible mechanism for intervention after an infringement or competitive concern arises, the paper will discuss whether ex ante regulatory tools would theoretically be more effective in cases where certain structures, such as television, digital platforms, or distribution channels, become permanent bottlenecks.
65.	The Exclusionary Effects of Category Captaincy and Visibility Practices: The Red Bull Investigation, the Belgian Example, and the Turkish Application	Category management (category captaincy) is a model where a retailer receives "neutral" advice from a supplier regarding planogram, promotion, shelf placement, and visibility decisions for a product category. However, in practice, this model can quickly lead to exclusionary effects, particularly due to data asymmetry and incentive structures. The category captaincy role can create closure mechanisms that limit the reach and growth of competitors, especially in fast-moving consumer goods markets where shelf visibility drives demand. This communication addresses the risks posed by category captaincy under competition law, focusing on the European Commission's current investigation into Red Bull and the Belgian Competition Authority's 2025 over-the-counter (OTC) decision, and proposes a practical assessment framework for practitioners. The European Commission's investigation, launched following on-site inspections in 2023, examines three key allegations of infringement: (i) incentives for retailers to remove competing bulk-volume (over 250 ml) products from shelves or to allocate shelf space at a disadvantage; (ii) Red Bull's use of its category manager role in some stores to the benefit of its own brand and to limit the visibility of competitors; and (iii) possible coordination through the EDE umbrella organization to restrict the distribution of bulk-volume products. The first two elements are considered to constitute exclusionary abuse under Article 102 of the ECHR, while the third element is considered to pose a risk of restrictive agreement under Article 101. The Belgian Competition Authority, in 2025, fined three suppliers approximately €11 million for excluding competitors in the OTC drug category in pharmacies through a shared planogram design and shelf advantages. The ruling found that the shared planogram and visibility preferences put competitors at a disadvantage.

		In Turkish practice, the Competition Board's decisions regarding Mey İçki demonstrate that even without a written category management agreement, risks of de facto closure can arise through visibility, shelf space ratios, and incentive mechanisms. The Board also notes that the EU Vertical Guidance states that category management agreements are excluded from group exemptions if market share exceeds the 30% threshold. Within this framework, how category captaincy and visibility practices are evaluated under Turkish competition law and under what conditions they may be considered anti-competitive will also be discussed. In conclusion, regarding category captaincy, (i) the supplier's market power and "must-stock" effect, (ii) the transparency of category recommendations and the retailer's ultimate control, (iii) the alignment of shelf plan and visible shelf space with market share and shelf fit dynamics, (iv) financial incentives associated with visibility and commitment to the target, (v) on-site enforcement/monitoring mechanisms, and (vi) common visible shelf space/data flow elements pointing to a potential Article 101 dimension will be considered together; intervention thresholds under Article 102 (and 101 if necessary) will be discussed when these issues are confirmed.
66.	Collective Bargaining Agreements and Competition Law: Scope and Limitations of Exemption	Collective bargaining agreements, while serving social policy objectives aimed at improving the working and employment conditions of workers, constitute a contested area in terms of competition law due to their ability to allow competing employers to find common ground regarding wages and other working conditions. Although the joint determination of wages and working conditions among competitors is generally considered a type of coordination that could constitute a competition violation in terms of its purpose, collective bargaining and collective labor agreements are based on a special framework protected at the constitutional and international levels. This tension is clearly observed in comparative law. In European Union law, the Albany decision established that collective bargaining agreements could be excluded from the scope of competition rules, taking into account social policy objectives; however, the EFTA Court of Justice's jurisprudence emphasized that this immunity is not absolute, and that regulations exceeding the aim of improving working and employment conditions may be subject to competition law scrutiny. In US practice, exceptions related to union activities are interpreted narrowly, and regulations that go beyond the labor market and restrict competition in the product or service market, even within the scope of collective bargaining, can be subject to antitrust review. Similarly, OECD studies acknowledge that the

		collective activities of workers aimed at improving working conditions should be protected, while also highlighting that employers are actors who need to be evaluated separately from a competition law perspective. In Turkish law, Law No. 6356 on Trade Unions and Collective Bargaining Agreements explicitly regulates collective bargaining agreements and group collective bargaining agreements; while Law No. 4054 on the Protection of Competition prohibits agreements that restrict competition between rivals. The intersection of these two regulations reveals the legislator's intention to exempt the principle of collective bargaining from the application of competition law on grounds of social policy. Indeed, the rationale behind Law No. 4054 explicitly states that the labor market, where the principle of collective bargaining is accepted, is excluded from the scope of the law's application. However, the scope and limits of this exemption are not always clear in practice. In particular, when multiple employers act together in a collective bargaining process with an authorized workers' union, whether or not they are under the umbrella of an employers' union, the extent to which this coordination falls outside the scope of competition law is debatable. In legal doctrine and practice, there is a prevailing approach that coordination limited to the scope of a collective bargaining agreement and its essential elements—wages and working conditions—may be considered legitimate under competition law; however, arrangements that go beyond the collective bargaining process and affect third parties or product and service markets may be evaluated under Law No. 4054. This statement acknowledges the exceptional position of collective bargaining agreements under competition law, but argues that this area does not constitute an absolute immunity regime and that exemptions must be carefully limited within the framework of jurisdiction, subject matter, and effect.
67.	Evaluation of Non-Compete Clause Practices within the Framework of Recent Competition Board Decisions	An examination of the Competition Board's decisions in recent years reveals that, in addition to decisions concerning horizontal agreements under Article 4 of Law No. 4054 on the Protection of Competition, investigations covering vertical violations are also noteworthy. In terms of vertical violations, the fixing of resale prices, non-compete obligations, and active and passive sales barriers in exclusive territory restrictions stand out as key issues. In particular, the number of cases concerning the fixing of resale prices, considered a clear and serious violation and subject to high administrative fines, is steadily increasing. In addition, the number of investigations related to territory, customer restrictions, and internet sales bans is also significant.

		Looking at the decisions published in 2025, it can be said that a third issue, namely the application of non-compete clauses, has become a matter requiring extreme caution for all undertakings. As is known, when it comes to vertical agreements, it is extremely important, even more importantly, to evaluate the contracts prepared by undertakings in terms of competition law, as well as their actual practices in their relations with their dealers/distributors. In this respect, contract clauses containing non-compete clauses need to be examined meticulously. It is thought that a comparative analysis of the decisions from 2025 would be useful in understanding the Board's approach to this issue. (06.02.2025) *The Intema decision* numbered 25-04/123-68 stands out as one of the important decisions made at the beginning of the year. The case involves two different assessments regarding *Intema's* products. While *Intema's* commitments regarding the non-compete obligations related to the concealed cistern product in the Vitra Point of Sale (Bathroom) Agreement were accepted and no administrative fine was imposed, a product-specific assessment was made, and an individual exemption was granted under Article 5 of Law No. 4054 regarding the non-compete obligation in the Authorized Dealership Agreement. Another important decision demonstrating the Board's approach in this regard is *the ZES* decision dated 27.12.2024 and numbered 24-56/1244-532, which evaluated the application of exclusivity for companies with a market share exceeding 30% but not exceeding 5 years. In this decision, an administrative fine was imposed due to contractual exclusivity practices, and the process was completed through settlement. Upon reviewing the reasoned decision, it is understood that the relevant party initially applied for a commitment regarding this matter; however, it was not accepted by the Board. Indeed, there are other cases in 2025 where the Board did not accept commitments regarding non-compete clauses and the process was completed through settlement. In its decision dated February 13, 2025, numbered 25-06/152-78, *Frito Lay* was fined for restricting competition in the packaged chips market by applying exclusivity in traditional channel retail outlets. When comparing the Board's previous decisions with these current decisions, it is assessed that non-compete clauses pose a significant risk of violation for all undertakings. While previous decisions indicated a strong risk of monetary penalties for dominant undertakings or those with high market share, this study will examine whether undertakings, regardless of their market share, face this risk in light of the new decisions. Furthermore, a comparison will be made between non-compete clauses that are terminated through settlement and those related to territory/customer restrictions, another vertical violation more likely to be resolved through commitment. In this regard, the study will discuss whether non-compete clauses follow the determination of resale prices, which is the most serious vertical violation.

		Consequently, it is considered that addressing the issue of non-compete clauses, which is thought to be diverging from the Board's previous decisions, from different perspectives will contribute to the competition law agenda.
68.	Resale Price Fixing (RPM) Ban in the Luxury Fashion Market: An Analysis of Vertical Restrictions on Online and Physical Channels in Light of the European Commission's Decisions on Gucci, Chloé, and Loewe	The challenges posed by vertical agreements in digitalized markets from a competition law perspective remain significant, particularly in the context of pricing policies in the luxury goods sector. This paper examines the penalties imposed by the European Commission on Gucci, Chloé, and Loewe for violating Article 101 of the TFEU and Article 53 of the EEA Treaty due to their Resale Price Maintenance (RPM) practices. The Commission's investigation revealed that these three companies restricted the ability of independent third-party retailers to set their own retail prices, both online and in physical stores. These restrictions were implemented through mechanisms such as requiring adherence to recommended prices, setting maximum discount rates, and imposing specific sales periods. In particular, Gucci's request to retailers to cease online sales of a particular product line demonstrates that online sales restrictions were also included in the violation. These practices eliminated price competition among retailers, ultimately increasing prices and reducing choices available to consumers. This study will analyze the principle that RPM (Retail Market Model) practices are considered a restriction by object under competition law, within the context of these luxury sector cases. Furthermore, it will address the negative impacts on consumers of these vertical restrictions, which companies implement to protect their own direct sales channels from retail competition. Another important aspect is that the three companies cooperated with the Commission under the Antitrust Cooperation Procedure and received significant reductions in their fines (50% for Gucci and Loewe, 15% for Chloé). This highlights the role of Gucci and Loewe in providing significant added-value evidence in the early stages of the investigation. The report will also assess the effectiveness of this cooperation mechanism in Commission investigations and its place in risk management for the companies. In conclusion, this series of decisions will be examined in terms of the implementation of vertical restrictions within the European Union and the clear signals sent to the luxury fashion sector, and will offer an updated perspective on how strictly the RPM ban is enforced across both online and physical channels.

69.	Abuse of Market Power in the Age of AI: Content Exploitation and the Disadvantage of Competing AI Models in Light of the European Commission's Google Investigation	As is known, competition law faces new and complex challenges along with the dynamics of the digital economy. In this context, the rise of artificial intelligence technologies is expanding the scope of application of the prohibition of abuse of dominant position (TFEU Article 102). This paper, focusing on the recent investigation launched by the European Commission against Google, examines how undertakings in a dominant position can use access to data and content as a competitive tool to develop artificial intelligence models. The Commission launched an investigation on 09/12/2025 based on its suspicion that Google violated competition rules by using the content of web publishers and YouTube content creators for artificial intelligence (Generative AI) purposes. The investigation is based on two elements. 1) YouTube fails to provide adequate compensation or the option to opt out when using content from publishers in search results, such as AI Overviews and AI Mode; and 2) YouTube fails to compensate content creators when using their content to train AI models, and denies rival AI model developers access to that content. According to the Commission, these practices have the potential to allow Google to exploit its dominant market position, disadvantaging competitors and exploiting the dependency of publishers/content creators. Content creators' dependence on Google Search traffic carries the risk of being unable to object to the unauthorized or unpaid use of their content. Similarly, YouTube's strict terms of service grant Google privileged access to content while preventing competitors from accessing this data, which is critical for AI model training. This study will examine the theories of exploitation and exclusion under Article 102 of the TFEU, particularly within the framework of unfair trading conditions and refusal to deal. Focusing on the fact that access to data and content in digital marketplaces constitutes a new "critical input" for competition, the paper aims to discuss how the Commission will chart a legal course in this new and challenging case. Finally, potential legal tools and policy recommendations for addressing the problem of abuse of dominant position in the age of artificial intelligence will be presented.
70.		Cross-shareholding or joint ownership structures, even if they do not grant companies direct control, can still be subject to scrutiny by authorities due to their impact on competitive dynamics. For example, a company being a

	Invisible Links in Competition Law: Cross-Shareholding and Joint Shareholding	shareholder in a competitor, or two or more undertakings operating in the same market having joint ownership structures, are examined within this scope. Competitive concern arising from cross-shareholding is a sensitivity that occurs when competing undertakings operating in the same market are directly or indirectly shareholders in each other. Competitive concerns arising from joint ownership are particularly relevant when institutional investors, such as funds, hold simultaneous shares in competing companies. While the shareholdings of these entities may be small, it is argued that this structure can reduce competition among rivals; debates focus on the impact of such a structure on competitive parameters. *Delivery Hero–Glovo* decision , [137]which also examined minority shareholding , found that market sharing, the sharing of competitively sensitive information, and the obstruction of employee mobility had occurred, and imposed fines on the companies. Shortly after, the *Just Eat Takeaway/Prosus* decision was published [138]by the European Commission. The Commission has conditionally approved Naspers' acquisition of Just Eat Takeaway (JET) through Prosus. A key issue in the review is that the cross-shareholding arising from Prosus's minority stake in Delivery Hero could weaken JET's incentive to compete with Delivery Hero and increase the likelihood of implicit coordination. As part of the transaction, Naspers committed to reducing its stake in Delivery Hero to a certain level and not exercising its voting, management, or information access rights. Taken together, these two cases demonstrate the Commission's increasingly proactive approach to structural risks arising from minority shareholdings. In Türkiye, the Competition Board, in a decision concerning the iron and steel sector, determined that cross-shareholding and management relationships restricted competition through information exchange and market sharing, and administrative sanctions were applied to the relevant undertakings. Additionally, it appears that the Competition Board has taken potential concerns arising from cross-shareholding into account in a number of merger and acquisition decisions. Consequently, cross-shareholding and joint shareholding are scrutinized from a competitive analysis perspective in both Turkish and other countries' competition law practices. Early identification of these structures and rigorous

[137]See: https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1356
[138]See: https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1951

		analysis of their competitive impact are necessary in mergers and acquisitions. Investors and companies should consider that such relationships in their portfolios could pose obstacles to future transactions; competition authorities, on the other hand, consider not only controlling shareholdings but all structural links with the potential to distort competition. Within the framework outlined above, this study will compare Turkish and global practices, examining the effects of cross-shareholding and joint shareholding from a competition law perspective, and addressing current policy debates.
71.	Abuse of Dominant Position in Digital Markets: Unfair Trading Conditions from a Competition Law Perspective	Abuse of dominant position through "unfair commercial terms" and/or "unfair contract terms" is a relatively new theory in the practice of the Competition Authority; its scope, limits, and the extent to which competition law can be applied to this area are controversial in both case law and legal doctrine. In digital markets, this debate is sharpened by the fact that platform terms not only regulate the bilateral relationship but also have the potential to "design" the functioning of the market through access, visibility, and transaction conditions. The striking aspect of the concept is its broad scope of application. As stated in the Competition Authority's study " *The Implications of Digital Transformation on Competition Law,* " [139]unfair commercial conditions can manifest as increased access fees (commission, shipping, listing/membership/store opening/service fees, etc.) applied to sellers, or as the structuring of non-price elements in platform-seller contracts/agreements (account closure/suspension, payment terms, etc.) in a way that disproportionately burdens the seller with risk and cost, or as a lack of transparency in these areas (imposition of unfair contract/agreement terms). This wide range of issues can also bring about the problem of "legal classification." An act alleged as an unfair commercial term may, in some cases, be amenable to intervention under consumer law, contract law, commercial law, personal data protection law, or e-commerce regulations. Indeed, in the Competition Board's decision regarding [140]*Microsoft* , it was indicated that intervention is possible under Law No. 4054 on the Protection of Competition, either jointly or separately, and other relevant laws, depending on the parties and the purpose of the unfair contract terms ; it was emphasized that such abuses are generally addressed under contract law/unfair competition

[139]Competition Authority, First Inspection and Enforcement Division, (April 2023), para. 382.
[140]Competition Board's decision *on Microsoft* (24-53/1166-502; 12.12.2024)

		provisions, but in cases where the behavior stems from market power, competition law may also come into play due to the potential to disrupt the competitive structure of the market. Regarding the anti-competitive impact on the market, while unfair trade/contractual terms might initially be perceived as exploitative, it is argued that such behavior can simultaneously encompass both exploitative and exclusionary effects, and that seemingly exploitative terms can even become tools of an exclusionary strategy. Therefore, rigidly classifying behavior as "exploitative/exclusionary" may not always be accurate or necessary. In EU practice, there have recently been discussions highlighting the exceptional and controversial nature of exploitative and unfair trading conditions, and therefore the need to set a high threshold for intervention. For example, in the opinion of Legal Spokesperson Emiliou [141]*of RRC Sports,* it is stated that (i) exploitative abuses are inherently exceptional and the probability of such violations remains low due to the market mechanism's tendency to correct imbalances, and (ii) therefore, intervention can only be considered when the imposed conditions become "clearly excessive". Emiliou also states that, within a two-stage framework, it should first be examined whether the imposed conditions deviate significantly and harmfully from their counterparts in effective competition conditions; and then whether this deviation reaches the level of "unfairness". Nevertheless, how to concretize consumer harm, especially in unfair trading conditions that are not considered "excessive pricing," -emerges as a further area of debate, especially when combined with network effects, lock-ins, and multilateral structures specific to digital markets. The aim of this communiqué is to discuss: (i) the conceptual and impact threshold framework within which the Authority evaluates unfair contract terms/unfair commercial conditions in digital markets, (ii) the methodological challenges encountered in determining the applicability of competition law (particularly the representation of “market impact” and “consumer welfare/harm”) and its interaction with other disciplines, and (iii) areas for improvement that could increase predictability in practice.
72.	Computational Analysis of Legal Precedent: A Thematic Network	1. Introduction: The Challenge of Scale in Doctrinal Analysis

[141]Case C-209/23, RRC Sports GmbH v Fédération Internationale de Football Association (FIFA), (15 May 2025).

	Approach to Turkish Competition Authority Decisions	In precedent-driven fields like Competition Law, the doctrine of stare decisis serves as the bedrock of legal certainty, promoting consistent and predictable administrative enforcement. However, the Turkish Competition Authority (TCA) has generated a massive corpus of nearly 10,000 decisions. For legal practitioners, policymakers and academics, manually tracing the intellectual lineage and hierarchy of norms within this "big data" environment is becoming increasingly formidable. Traditional doctrinal research often relies on intuition, experience or anecdotal selection to identify "landmark" cases. This study proposes an empirical, data-driven alternative: Thematic Network Analysis. By treating citations as "latent judgments" of authority, we can map the actual jurisprudential structure of the TCA's enforcement history, moving from qualitative assessment to quantitative evidence. 2. A Taxonomy of Legal Precedent Methodologically, this study isolates specific legal concepts (eg, "Predatory Pricing," "Workforce Markets") to construct focused citation networks. Unlike general network analyses, this thematic approach filters out noise, revealing how legal arguments are constructed within specific competition violation types and/or markets. By applying graph theory metrics to these citation networks, this study proposes a new functional taxonomy for classifying TCA decisions: 'cornerstone' decisions that form the foundation of a legal topic, 'keystone' decisions that shape modern jurisprudence, 'encyclopedic' decisions that offer comprehensive reviews and 'emerging' decisions that gain attraction at a high speed. 3. Case Studies: Predatory Pricing, Cartels and Workforce Markets Applying this framework to the concepts of "Predatory Pricing" and "Cartels" the analysis reveals highly centralized, mature legal doctrines. Crucially, the analysis demonstrates that the TCA's approach to these concepts is cross-sectoral. In sharp contrast, the analysis of "Workforce Markets" (no-poach, wage-fixing agreements etc.) reveals the characteristics of an emerging legal doctrine. The network topology is sparse and fragmented, resembling an 'archipelago' of isolated star-shaped clusters rather than a cohesive web unlike a mature doctrine. 4. Implications for Competition Law Scholarship

		By integrating network science with traditional legal analysis, this study provides a reproducible framework for academics and practitioners to visualize the hidden structure of TCA jurisprudence. It moves beyond anecdotal evidence to empirically identify which decisions truly control the development of competition law in Turkey. By mapping these distinctions, Thematic Network Analysis offers a powerful new tool for: 1. Litigation Strategy: Identifying which precedents act as the true "gatekeepers" of a legal argument. 2. Regulatory Policy: Visualizing where legal doctrines are consistent and where they are fragmented or contradictory. 3. Academic Inquiry: uncovering the "hidden" structural decisions—the Keystone precedents—that shaped the (economic) logic of the TCA, even if they have fallen out of common citation. Ultimately, this study argues that the evolution of Turkish Competition Law is measurable. By making the latent structure of jurisprudence visible, we gain a deeper understanding of how the TCA creates, sustains, and evolves its legal norms.
73.	In the Process of Digitalization of Financial Services Competition Law Issues	With the digitalization of markets where financial services are offered, traditional actors and traditional competitive dynamics are completely changing. Banks and insurance companies, known as traditional actors, are competing not only with each other but also with many different actors in numerous sectors created by digitalization. Therefore, it is necessary to analyze the phenomena created by digitalization in terms of competition law and to identify the problems in practice. Within the scope of this thesis, the structural and behavioral competitive concerns arising in digital financial services markets, network effects, self-preferentialization practices, new actors in the digital finance field, multilateral markets, big technology enterprises (BigTech) and the transfer of market power of big technology enterprises to the financial services market, the possible effects of barriers to entry on competition law, and the inadequacy of traditional competition law tools in combating these problems arising in the digitalization process of financial services will be discussed. This thesis argues for the need to develop a dynamic, innovative, interdisciplinary, and collaborative competition law policy to address competitive concerns within FinTech and the FinTech ecosystem, establish a competitive environment, and promote the protection of consumer welfare. Indeed, the dynamics of the digital financial services market are too valuable to be left to the initiative of the free market and require proactive state intervention.

74.	A Multidisciplinary Sanctions Case: An Examination of Intellectual Property Rights in Light of Competition Law Violations in the Tetrapak Decision	One of the fundamental building blocks of competition law practice is injury theory. Injury theories define the analytical framework for investigations by revealing why and through what mechanisms a particular undertaking's conduct gives rise to competition law concerns. In this respect, it can be said that injury theories form the starting point for the assessments of competition authorities, especially in the detection of abuse of dominant position violations where impact-based analyses are emphasized. Injury theories, which vary on a case-by-case basis, can reveal direct and easily identifiable competition concerns, as well as indirect, complex, and multidisciplinary analyses. The Competition Board's decision of August 1, 2024, regarding Tetra Pak [142], constitutes a current and concrete example of multidisciplinary damage theories. This decision, significant in terms of the position of competition law vis-à-vis other legal disciplines, has also sparked discussions on the conditions under which the exercise of rights stemming from intellectual property law can be subject to competition law scrutiny. One of the most crucial aspects of the decision is that, in addition to the sanction imposed for abuse of dominant position, the undertaking was required to relinquish certain 3D trademark and design rights. In other words, the Board here imposes restrictions on the exercise of rights originating from a different legal discipline in order to address competition law concerns. This study, centering on the Board's Tetra Pak decision, will first examine how and under what conditions the exercise of intellectual property rights by dominant undertakings may raise competition law concerns. This section will break down the fundamental elements of the Board's damage theory and evaluate their interaction. The study will assess how the intellectual property rights under investigation affect the determination of dominant position and the damage theory in this case, particularly examining the potential for exclusionary effects and the restriction of alternatives. The intersection between competition law and intellectual property rights will also be examined, along with the Board's consistency in similar cases, and the points in which the Tetra Pak decision differs from the Board's previous jurisprudence will be discussed. Drawing upon relevant competition law literature, this study will particularly examine examples from European competition law, which serves as a source of application.

[142]Decision No. 24-32/758-319 of the Competition Board dated August 1, 2024.

		Our study will also examine other examples of damage theories associated with the use of intellectual property rights, [143]and will touch upon decisions regarding publishing rights and negative matching .[144] Finally, our study will discuss the extent to which the Board can restrict a right of an undertaking that arises from other legal disciplines and is exercised in accordance with the relevant legislation. Approaching the issue from a balance of interests perspective, our study will conduct a comparative analysis between the interests sought to be protected by the Board's decision and the interests that intellectual property protection aims to provide. Explaining how the protection provided by intellectual property rights encourages R&D activities, our study will address the potential negative impacts of imposing strict restrictions on the protection of these rights on innovation and will offer inferences on how to balance concerns arising from competition violations with innovation-reducing effects. In the concluding section of our study, potential application trends following the Tetra Pak decision will be presented, and the points to be considered in light of the decision will be summarized.
75.	A New Era in Concentration Control: Investment Commitments and the Role of Economic Growth in Competitive Analysis within the Scope of Vodafosne/3UK and Stellantis/Tofaş Decisions	Mergers and acquisitions occupy a central place in the globalized economic order. While such transactions can contribute to competitive processes through the synergies and efficiency gains they create, they can also lead to concentration and hinder effective competition. Therefore, mergers and acquisitions that significantly increase the market power of undertakings while depriving consumers of these benefits are prohibited [145]. However, undertakings can make structural and behavioral commitments as an antidote to competition concerns. The content of these commitments is primarily designed to address the competition law concerns in question. On the other hand, recent examples of implementation show that, in addition to commitments shaped by direct competitive concerns, commitments that consider macroeconomic benefits and support economic growth are also on the agenda. These approaches, which call into question the purpose function of the commitment mechanism, demonstrate that public policies related to economic growth can also be taken into account during the control of concentrations.

[143] *Commission Decision 89/205/EEC, Case IV/31.851 -Magill v ITP, BBC and RTE,* OJ L [1989] 78/43.

[144]Competition Board's decision numbered 21-57/789-389 and dated 25.11.2021 regarding Moda Nisa.

[145]Varol, N. (2010). *Solutions and commitments in anti-competitive mergers and acquisitions* (Competition Authority Expert Thesis Series No. 101). Ankara: Competition Authority.

		The Competition Board's (" **Board** ") Stellantis/Tofaş decision and the Competition and Markets Authority's (" **CMA** ") Vodafone/3UK decision are among the most prominent current examples that concretize this approach. This study will examine the role of investment commitments in controlling concentrations, using examples from Turkey and the UK, and investigate the extent to which they align with the intended function of the commitment mechanism. Highlighting that investment commitments can be used as a policy tool to support economic growth, this study will evaluate the place of this objective within practices aimed at controlling concentrations. Furthermore, it will examine the relationship between competitive concerns in the relevant transactions and investment commitments. Our study will first examine the Board's Stellantis/Tofaş decision. Specifically, we will analyze the second commitment package that paved the way for the transaction, explaining the content of Tofaş's commitments to increase its production, export, and employment capacity. Within the same scope, we will also address the impact of the investment commitment on the automotive main industry, which is critical to the transaction, as well as on the sub-industry [146]. The CMA's decision regarding the Vodafone/3UK merger will be discussed next. This decision acknowledges that the transaction raises competition concerns, but also assesses that the planned investments will increase competition and significantly improve mobile network quality in the long term [147]. Our study will examine the CMA's approach in this context and evaluate how the investment commitments can address these competition concerns. Our study, which examines both decisions from the perspective of the purpose function of competition law, will address consumer welfare and aggregate welfare approaches; it will explain the common methods used to identify competitive concerns in concentration controls. Furthermore, it will explain how competitive concerns identified through tests of creating a new dominant position or strengthening an existing dominant position, and tests of hindering effective competition, shape the commitment packages. Our study will highlight that the Concentration Regulation, which forms the basis of commitment practices, only authorizes the European Commission to accept commitments that are sufficient to eliminate the problem of significantly restricting competition and that make the

[146]Turkish Competition Authority. (2025, April 18). *Approval granted for Tofaş / Stellantis acquisition under investment and distribution commitments* [Website]. Turkish Competition Authority. https://www.rekabet.gov.tr/tr/Guncel/tofas-stellantis-devralma-islemine-yatir-a11d5c79701cf01193e40050568585c9 .

[147]Competition and Markets Authority & Ofcom. (2025, June 2). *Joint statement from the CMA and Ofcom regarding the Network Commitment remedy* [PDF]. https://assets.publishing.service.gov.uk/media/683d54cee2008d4b92c80e1f/joint_statement_from_the_CMA_and_Ofcom.pdf .

		merger compatible with the common market. It will explain that these commitments must completely address competitive concerns and must be understandable, effective, and implementable in a timely manner [148]. Our study, which found that investment commitments have a more indirect impact on competitive concerns compared to other commitments, will also highlight that the consequences of these commitments are generally observable in the long term. Within the scope of our study, which examines the direct and indirect effects of investment commitments on consumer benefit, it will also be noted that these commitments should not be implemented in a way that reduces legal predictability. In conclusion, our study will highlight how these two decisions represent a new type of application where the social welfare criterion is considered from a broader perspective that takes into account the dynamic nature of competition in addition to static price-output analysis, and will list the points to be considered for similar approaches.
76.	Application of the New Penal Regulation Provisions in Competition Board Decisions in Terms of Time, within the Context of the Turkish Penal Code and the Law on Misdemeanors	of Law No. 4054 on the Protection of Competition (" **Law No. 4054** ") stipulates that agreements, concerted actions, and decisions restricting competition are unlawful and prohibited, while Article 6 stipulates that abuse of dominant position is also unlawful and prohibited. Article 16/3 of Law No. 4054 stipulates that those who engage in the behaviors prohibited in both Article 4 and Article 6 shall be subject to administrative fines up to ten percent of their gross income. The last paragraph of the same article grants the Competition Board the authority to regulate, through regulations, the matters to be considered in determining the administrative fines to be imposed pursuant to Article 16 of Law No. 4054. The Competition Board exercised its authority to regulate administrative fines with regard to the actions regulated in Articles 4 and 6 of Law No. 4054 through the Regulation on Fines to be Imposed in Cases of Restrictive Agreements, Concerted Actions and Decisions and Abuse of Dominant Position (" **Old Regulation** "), published in the Official Gazette dated February 15, 2009, and numbered 27142, and determined the administrative fines to be applied in case of the commission of prohibited actions in proportion to the duration of the violation.

[148]Commission Notice (2008/C 267/01) "On Remedies Acceptable Under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004".

		Subsequently, the Competition Board published the Regulation on Administrative Fines to be Imposed in Cases of Restrictive Agreements, Concerted Actions and Decisions and Abuse of Dominant Position (" **New Regulation** ") in the Official Gazette dated 27.12.2024 and numbered 32765, and the Old Regulation was repealed. of the Law on Misdemeanors No. 5326 (" **Law on Misdemeanors** "), this law applies to all administrative fines. Regarding the temporal application of administrative fines, Article 5 of the Law on Misdemeanors stipulates that the provisions of the Turkish Penal Code No. 5237 (" **TCK** ") concerning temporal application shall apply. In this sense, the provisions of the TCK concerning temporal application shall also be applied in determining the regulations that will be applicable to administrative fines to be imposed by the Competition Board in the event of any finding of a violation of Law No. 4054. Article 7/2 of the Turkish Penal Code, regarding the application of the law in terms of time, states: " *If the provisions of the law in force at the time the crime was committed and the provisions of the law that came into force later are different, the law* that is more favorable to the perpetrator shall be applied and enforced." Accordingly, if the Competition Board detects a violation of Articles 4 and 6 of Law No. 4054, it should compare the provisions of the Old Regulation and the New Regulation and apply the provision that is more favorable to the perpetrator of the violation. The prevailing view regarding the application of the Turkish Penal Code is that comparisons between new and old regulations should be made across all provisions of the regulations, and that ultimately, all provisions of the regulation that results in outcomes favorable to the perpetrator should be applied.[149] Therefore, in decisions rendered as a result of investigations conducted by the Competition Board, when determining an administrative fine to be imposed for violations of Articles 4 or 6 of Law No. 4054, the provisions of the Old Regulation and the New Regulation should be compared, and the regulation provisions that ultimately result in a lower fine should be applied as a whole. However, it appears that this comparison is not properly made in the decisions of the Competition Board. Indeed, in various decisions, such as the Arzum decision dated 09.05.2025 and numbered 25-18/422-198, following

[149] KOCA, Mahmut, ÜZÜLMEZ, İlhan, **General Provisions of Turkish Criminal Law** , 17th Edition, Ankara, Seçkin Yayıncılık, 2024, p. 79

		investigations conducted by the Competition Board after the entry into force of the New Regulation, it is observed that the provisions of the New Regulation are applied to violations that occurred during the period of the Old Regulation without any comparison. This paper will examine the temporal application of the provisions of the New Regulation in the decisions of the Competition Board, within the context of the provisions of the Law on Misdemeanors and the Turkish Penal Code.
77.	Same Table, Different Enterprises: The Limits of the Doctrine of a Single Economic Entity in the Context of Joint Ventures	The doctrine of a single economic entity is a fundamental concept in competition law that allows structures consisting of multiple natural or legal entities to be considered as a single undertaking, taking into account their economic and functional ties. This doctrine has two important practical consequences: agreements between companies within the same economic entity are exempt from the prohibition of anti-competitive agreements, and the parent company, in particular, can be held liable for violations by a company within the economic entity. One of the most controversial application areas of the doctrine of a single economic entity is joint ventures. This is because, while joint ventures operate as independent legal entities and fully functional market actors, their economic independence is questioned due to their capital, control, and interest ties with their parent companies. This dual structure raises the question of whether joint ventures, together with their parent companies, constitute a single economic entity, and consequently, whether agreements between parent companies and joint ventures should be considered "inter-undertaking" under competition law. Due to the practical, rather than theoretical, importance of this issue, this circular aims to address the relationship between joint ventures and the parties to a joint venture, thereby defining its boundaries. In this context, EU practice will be examined first. Indeed, it is seen that the answer to this question has evolved over time in EU practice, which contains more case law on the subject. In the early decisions of the European Commission (" ***the Commission*** "), fully functional joint ventures were considered as separate undertakings from their parent companies, based on their independent operation in the market, and therefore, agreements between parent companies and joint ventures were examined under Article 101 of the Treaty on the Functioning of the European Union [150]. On the other hand, with the development of case law regarding parent company liability in cartel cases, the

[150] Case - IV/32.732, Ijsselcentrale et al., Case - IV/32186 Gosme/Martell – DMP; General Court judgment of 6.04.1995, case T-145/89, paragraphs 107-108.

		European Court of Justice (" ***ECJ*** "), focusing on the concept of decisive effect, accepted that under certain conditions, joint ventures and parent companies constitute a single economic entity [151]. However, the ECJ emphasized that this approach is essentially limited to determining liability; it has specifically avoided establishing a general and horizontal principle that joint ventures, together with their parent companies, shall be considered a single undertaking in all cases. The Commission's updated Horizontal Cooperation Guidance of 2023 also reflects this cautious approach, stating that relationships between joint ventures and parent companies can only be exempt from competition law scrutiny under certain conditions. In Turkish competition law, the relationship between joint ventures and the doctrine of a single economic entity is assessed within a relatively established line of case law. The Competition Board (" ***the Board*** "), in its consistent jurisprudence, has considered fully functional joint ventures as separate undertakings from their parent companies and has mostly examined their agreements with parent companies under Article 4 of Law No. 4054 on the Protection of Competition [152]. However, in a limited number of exceptional decisions, the Board has leaned towards the assessment of a single economic entity based on concepts such as "unity of interest" and "elimination of competitive motivation [153]. " This paper aims to comparatively examine the applicability of the single economic entity doctrine to joint ventures from the perspectives of European Union and Turkish competition law. The study will discuss the conditions under which joint venture-parent company relationships may fall outside the scope of competition law scrutiny, based on criteria such as decisive influence, convergence of interests, and independent operation; and will evaluate how a more consistent and predictable framework can be developed to address uncertainties arising in practice regarding specific issues on the agenda of competition law, such as the labor market.

[151]See the CJEU's Akzo Nobel v. Commission Judgment, EU:C:2009:536, paragraph 55; Shell Petroleum v. Commission Judgment, EU:T:2012:478, paragraph 52; CJEU's EI du Pont de Nemours and others v. Commission, T -76/08; CJEU's The Dow Chemical Company v. Commission Judgment, C-499/11; CJEU's Toshiba v. Commission Judgment, Case C-623/15; CJEU's LG Electronics and Koninklijke Philips Electronics v. Commission Judgment, Cases C -588/15 and C622/15, ECLI:EU:C:2017:679, paragraphs 71 and 72 and LG Electronics and Koninklijke Philips Electronics v. Commission, paragraph 76.

[152]The Board's decisions dated 11.12.2003 and numbered 03-78/948-392; the Board's decision dated 08.07.2005 and numbered 05-44/628-161; the Board's decision dated 30.05.2006 and numbered 06-37/477-129 ; the Board's decision dated 29.4.2009 and numbered 09-20/403-98 ; the Board's decision dated 17.02.2014 and numbered 14-03/60-24; the Board's decision dated 17.01.2014 and numbered 14-03/60-24; and the Board's decision dated 26.12.2019 and numbered 19-46/786-343; The Board's decision dated 08.03.2018 and numbered 18-07/118-64.

[153]The Board's decision dated 24.09.2014 and numbered 14-35/698-305.

7 8.	Two-Sided Platform Model for DMA Analysis	The paper develops a tractable two-sided platform model to quantify how Digital Markets Act (DMA) obligations affect consumer welfare and innovation. Using a Rochet-Tirole framework with explicit network effects and developer entry dynamics, we demonstrate that commission caps transfer surplus to developers but disrupt cross-subsidization, potentially reducing consumer welfare and total welfare. The research addresses how DMA implementation challenges have reduced consumer welfare and innovation in the EU, and how Turkey and South Korea should adapt their digital regulations to avoid similar pitfalls. The model examines a platform ecosystem connecting users and developers, where the platform charges a two-part tariff consisting of a per-developer fee and an ad valorem take rate, whilst network effects operate cross-side with interoperability obligations attenuating these effects through a fragmentation parameter. The core regulatory tension emerges: DMA caps on commission rates help developers but may harm consumers by reducing cross-subsidies. The empirical strategy exploits the March 2024 DMA designation of gatekeepers as a natural experiment, using difference-in-differences methodology with apps on designated platforms in the EU as treatment group, compared against the same platforms in non-EU markets, non-designated platforms in the EU, or synthetic controls. Structural parameter recovery uses reduced-form estimates together with equilibrium conditions to identify demand elasticities, network effects, fragmentation parameters, and entry costs. **Numerical calibration predicts aggregate welfare losses ranging from nine to twelve per cent under DMA-style regulation, with consumer surplus declining by twenty-eight to thirty-two per cent despite ten per cent developer surplus gains** . Capping commissions transfers modest surplus to developers but substantially raises user prices and shrinks the user base, with net effect being a nine per cent total welfare loss driven by twenty-nine per cent consumer surplus decline. **Interoperability requirements amplify losses to nearly twelve per cent and consumer surplus losses to thirty-two per cent by fragmenting network effects** . Based on the outcomes, the paper endeavors to analyze the DMA-like law proposed amendment, which is planned to be introduced as Article 6/A of the Competition Law, providing recommendations on the style of regulation taking “online intermediation services” as starting point. We subsequently recommend phased implementation beginning

		with alternative billing at commission rates between twenty and twenty-five per cent, monitoring impacts before proceeding, and adding interoperability only if developer entry increases without security incidents, targeting fragmentation at or below fifteen per cent. Both countries should recognize that commission caps create a fundamental trade-off: they help developers but may harm consumers by disrupting cross-subsidization, with moderate approaches that balance stakeholder interests being more likely to achieve positive outcomes.
79.	From Code to Collusion: Reimagining Section 1 Challenges in Algorithmic Pricing	This work draws on my graduation paper for the Antitrust Litigation and Case Management course at Georgetown University Law Center, and adopts an interdisciplinary perspective combining law and economics. While the paper is attached, please find my proposal text below. Machine learning-based algorithmic pricing software has transformed competitive dynamics across sectors from multifamily housing to e-commerce, presenting novel challenges for antitrust enforcement under Section 1 of the Sherman Act. In this presentation, I intend to examine when Competitors' adoption of identical pricing algorithms constitutes an "agreement" without direct communication and how courts characterize such agreements' objects—as price-fixing, information-sharing, or data pooling in the US I conduct a comparative analysis of key US cases, including *Duffy v. Yardi Systems, Inc., United States v. RealPage, Inc., Zulily, Inc. v. Amazon.com, Inc., Gibson v. MGM Resorts International* , and *Cornish-Adebiyi v. Caesars Entertainment, Inc.* , to identify evidentiary thresholds for hub-and-spoke conspiracies, with emphasis on market concentration, high adoption rates (80–90%), and nonpublic data-sharing. These cases illustrate successful pleadings in *Duffy and RealPage* , where detailed claims of data pooling and adherence to supra-competitive recommendations satisfied *Twombly's* plausibility standard, contrasting with dismissals in *Gibson* and *Cornish-Adebiyi* due to vague coordination claims. I explore the legal framework for interpreting *"agreement"* under Section 1 in algorithmic contexts, drawing on precedents such as *Interstate Circuit* and *Twombly* , and propose refinements to the parallel conduct and *"plus factors"* approach. By integrating DOJ guidelines on identical pricing and suspicious data-sharing indicators with scholarly debates—such as McSweeny and O'Dea's warnings regarding tacit collusion risks and Kühn and Tadelis's focus on coordination challenges—I aim to enhance the Sherman Act's efficacy in algorithm-driven markets. In the technical section, I elucidate reinforcement learning (RL) algorithms such as Deep Q-Networks and online learning mechanisms such as Q-learning and UCB, assessing their potential to sustain supra-competitive prices in concentrated markets, as demonstrated by Tinoco and Others' simulations showing 3–7% rent increases.

		These US developments provide valuable insights for Turkish Competition Law, including analogous interpretations of Article 4 of the Law on Protection of Competition and scrutiny of data-exchanges to detect algorithmic collusion. I advocate for adapting the Twombly plus factor framework to algorithmic threats, incorporating algorithm design intent, data-sharing scope, and market outcomes, and offer reflections on the future of antitrust enforcement, addressing detection hurdles, legal gaps in tacit collusion, and societal harms like exacerbated housing insecurity for low-income tenants. At the last step, I would also like to ask a personal question to the audience: If algorithmic pricing and bots pose antitrust risks through tacit collusion in housing or e-commerce, could we scrutinize stock exchanges like the NYSE similarly? Here, participants use similar high-frequency trading bots in a centralized platform, enabling rapid, coordinated price reactions without explicit agreements. Might this mimic hub-and-spoke conspiracies, with the exchange as the "hub," raising Section 1 concerns over market definition and violations like manipulation or flash crashes?
80.	Clarifying the Gray Areas: The Limits of Information Exchange During Early Initiation and Pre-Intensification Periods	Concentration control regimes constitute one of the most fundamental and effective tools used by competition authorities to prevent potential market distortions. Under many concentration control regimes, it is essential that the parties to notified concentration transactions operate as independent undertakings in the market until they obtain the approval of the relevant competition authority. [154]Violation of this obligation in various ways during the pre-concentration period is referred to as *gun-jumping* . In this context, to prevent premature implementation, many concentration control regimes impose certain procedural obligations on the parties to the transaction, such as notification and waiting periods. However, in cases where the parties are actual or potential competitors, if the parties coordinate their competitive behavior before the competition authorities complete their investigation, premature implementation can acquire a substantive dimension and be interpreted as an anti-competitive agreement or concerted action.

[154]OECD, Suspensory Effects of Merger Notifications and Gun Jumping, OECD Roundtables on Competition Policy Papers, No. 276, OECD Publishing, 2018, p.14.

		Due to the nature of the processes involved in concentration transactions, extensive information exchange between the parties is necessary for the transaction to be implemented. Therefore, information exchanges in the pre-concentration period can sometimes lead to a de facto change of control or an anti-competitive agreement. In this context, uncertainty arises for both the transaction parties and the implementers regarding when such information exchange falls within legitimate boundaries. The aim of this communication is to clarify how the concept of early commencement should be interpreted and the limits of information exchange in the pre-concentration period, in light of the decisions of various competition authorities, primarily the Competition Board (" ***Board*** "), the European Commission (" ***Commission*** "), the United States Federal Trade Commission (" ***FTC*** ") and the United States Department of Justice (" ***DOJ*** "). From this perspective, this study will examine over seventy of the Board's decisions to date, summarizing which types of behavior the Board has interpreted as a change of de facto control, i.e., procedural preemption. Subsequently, from a comparative perspective, how competition authorities, including the Board, have interpreted the exchange of competitively sensitive information in the pre-merger period will be examined.[155] Within the framework of these decisions, discussions revolving particularly around *gap control* and interim access rights *will* be addressed; the scope of veto rights granted in the pre-closing period and whether information access mechanisms effectively create a transfer of control will be evaluated. This section will discuss what types of information can be shared at which stage of an ideal concentration under competition law and will highlight potential safe zones. In this respect, the aim of the communiqué is to approach the concept of early commencement from a debating and critical perspective; to reveal problematic areas in practice; and to offer guiding solutions for both competition authorities and undertakings.
81.	A Review of the Nature of Gun-Jumping Control:	The recent increase in gun-jumping (mergers and acquisitions subject to notification being carried out without the Authority's approval) by the Competition Authority indicates that the merger/acquisition control regime is increasingly placing more emphasis not only on substantive competition analysis but also on maintaining procedural

[155]Examples: Board of *the Doğanay/Taxim decision* (10.09.2020, 20-41/556-251), Board of the *Kartek/Param II decision* (27.12.2024, 24-56/1241-531); Commission of *the Altice/PT Portugal* decision (*24.04.2018, M.7993); FTC, Insilco, 30.01.1998, Dock No. C-3783; FTC, Bosley, 5.06.2013, Dock No. C-4404; United States of America v. Legends Hospitality Parent Holdings, LLC, 05.08.2024; United States of America v. XCL Resources Holdings, Llc, Verdun Oil Company, and EP Energy Llc., 01.07.2025, 1:25-cv-00041; United States of America v. Computer Associates International Inc. and Platinum Technology International, Inc., 20.11.2002; US District Court for the Northern District of California, United States of America v. Gemstar-TV Guide International Inc. and TV Guide Inc.,11.07.2019, 03-0198.*

	Deterrence, Economic Incentives, and the Transformation of Procedural Authority in Merger Control	discipline. In particular, recent Board decisions issued in 2024 and 2025 give the impression that gun-jumping violations are evolving from a secondary procedural violation into an independent area of enforcement that preserves the Authority's scheduling authority and the effectiveness of its supervisory function. This study focuses on the following main question: Are gun-jumping reviews becoming an auxiliary tool complementing the substantive competition analysis of merger control, or are they evolving into an autonomous area of oversight operating with a different normative logic aimed at preserving the Agency's procedural authority and timing of intervention? However, how gun-jumping sanctions function in the context of the economic interests of undertakings constitutes a separate area of discussion. Particularly in acquisitions with high transaction value, it is possible to conduct a comparison and/or risk analysis between waiting-related costs (e.g., transaction delays or loss of business opportunity) and administrative fines. In this context, the study raises the question of whether gun-jumping risk becomes an economically tolerable cost element in some transactions; it argues that deterrence is related not only to the amount of the penalty but also to the predictability and timing of its application. From a comparative law perspective, it is observed that gun-jumping violations in EU and US practice are addressed within a more established and predictable framework compared to Türkiye. In both systems, gun-jumping is considered a fundamental procedural rule that protects the functioning of the merger control regime, independent of its material competition effects. This comparison highlights the importance of strengthening predictability and consistency of application, while maintaining a balance between penalty and proportionality in Turkish practice, for the effectiveness of merger control. It is argued that the layered consequences beyond monetary fines observed in the EU and the US may create a relatively different deterrent for undertakings. In conclusion, this study points out that gun-jumping control is increasingly occupying a central position in terms of the implementation priorities of the merger/acquisition control regime in Türkiye, and aims to present a policy-level discussion on how the control regime can be structured in terms of deterrence and institutional effectiveness.
82.		Recently, there has been a significant increase in interest in labor markets within competition law practices; in particular, non-poaching and wage-fixing agreements have frequently been on the agenda of competition authorities.

	Market Definition and Dominant Position Analysis in Labor Markets: A Methodological Review of the Predatory Hiring Debate	The Labor Market Guidelines published by the Turkish Competition Authority and its recent decisions, as well as issues addressed in some decisions and guidelines in the US and EU, demonstrate this trend. However, the question of how to define the relevant labor market, especially in terms of dominant position analyses, is not yet sufficiently clear. Indeed, the Labor Market Guidelines published by the Competition Authority explicitly acknowledge the possibility of abuse of dominant position in the labor market under Article 6 of the Law on the Protection of Competition; however, it does not provide concrete criteria for defining the relevant labor market that would allow for this assessment. This study suggests that this methodological deficiency can be made visible in the context of predatory hiring *discussions* . The concept of predatory hiring was first discussed in the United States in the context of *the Universal Analytics* case; it raised the question of whether a dominant undertaking's hiring of key personnel with the aim of excluding competitors constitutes a problem under competition law. However, for this discussion to proceed properly, it is first necessary to define the boundaries of the relevant market in the labor market and to link the aim of excluding competitors to objective and predictable criteria. Without a market definition, neither the existence of a dominant position nor a consistent analysis of the exclusionary effect can be established. In Turkish practice, particularly in recent decisions, the labor market is often treated as a single, homogeneous market without making distinctions based on products, services, or skills. This approach leads to businesses operating in different sectors being considered competitors in the same labor market; this significantly complicates the meaningful measurement of market shares and the determination of dominant position. In contrast, in US and EU practices, labor markets are defined more narrowly based on criteria such as skill set, professional expertise, geographical mobility, and substitutability among employers. Although this approach does not constitute a uniform and established standard, it has the potential to offer a functional methodological framework for future dominant position analysis. This study discusses, using a comparative analysis method, how the definition of the labor market in Turkey can be narrowed down based on specific criteria, how the methodological gap regarding concrete criteria and dominant position analysis can be filled, and specifically how this need can be addressed in technology enterprises and innovation-based sectors. In this context, *predatory hiring* and, to a limited extent, *acqui-hire* examples are examined to demonstrate the practical consequences of the lack of a defined market. Finally, the potential interaction of the

		proposed approach with labor law and the principles of free movement of labor is indicated as a sub-area of discussion; however, it is emphasized that methodological consistency should be at the center of competition law analysis.
83.	A New Competitive Market Structure in the Emissions Trading System with Carbon Quotas, Carbon Tax, and Carbon Credits	At both international and national levels , the transition from carbon - intensive energy systems to low - carbon energy systems has been one of the most important agenda items in recent years . It has become one of them. The carbon sector , which is the foundation of economic stability, growth and development , is experiencing changes in scale . equilibria in competitive markets also It has reshaped the landscape. Today's societies, whether industrialized or industrializing , aim not only for development but also for sustainable , inclusive , and smart development . In this context , climate change and environmental concerns are primarily behind the transition to an Emissions Trading System (ETS) . In addition, clean energy security and a response to increasing natural energy demand are also important . the ability to provide , to meet investment needs at reasonable costs , and the ongoing problem of access to energy . Addressing this deprivation in underdeveloped countries requires prioritizing the transition to ETS , especially for developed countries . current events a factor that makes it one of the substances . The transition to ETS is ongoing , multidimensional . As a problem, it directly affects many sectors, institutions and public policies . a complex structure with e t k and ye n It is the owner . However , this transition will be felt most strongly and its success will be greatly dependent on ... The sector to which this measure is linked is the carbon sector. In this sector , where the current supply - value -use chain is expected to undergo a transformation , the most critical factor will be technological innovations. Just as climate change has irreversibly impacted the environment , so too have energy policies . mer k ezine If it has been implemented , technological advancements This will shape the success of environmental and energy policies . Carbon emissions , as an economic input, are crucial for both economic stability . both Besides being a determinant of the competitiveness of countries, it is also an integral part of the daily lives of individuals . For the Emissions Trading System to function properly , strong communication , coordination, and integrity are necessary between different institutions and policies . It is necessary . In this context , to ensure allocation , emissions and dynamic efficiency ; Competition policies, implemented with the aim of establishing competition in new markets and maintaining it in mature markets, play a significant role in the transition to the ETS . The carbon market is crucial for the European Union to enable companies to reduce greenhouse gas emissions. It is one of the most important tools used . But what are the fundamental dynamics on which this system is based? How is the price of carbon determined ? How is it determined ? What is the difference between a carbon market and a carbon tax ? This system , which some call the " right to pollute " ... closer It 's worth examining .

84.	A Financial Supermarket's Challenge with Competition Rules; A Summary of 12 Years of Work; Successes and Failures.	This study examines the case of a financial supermarket that was subject to a competition investigation by the Competition Authority in 2013. The author served as an expert and deputy director at the Competition Authority during its first ten years of operation, was part of the team that handled the defense and compliance program for two banks, one large and one medium-sized, in the 2013 12 Bank Investigation, and finally spent the last 12 years as a competition law consultant for one of Turkey's private financial supermarkets. I wanted to share my experiences, successes, and the points where I struggled. This presentation contains concrete experiences from the financial sector rather than purely theoretical content; in a sense, it contains blood, tears, sorrow, and hope. What is the concept of a Financial Supermarket? Jason Fernando defines a financial supermarket on the website "www-investopedia-com" as a financial institution offering a range of financial services. According to him, these services include daily banking and credit transactions, as well as more advanced services such as stock brokerage, insurance, and even investment banking. In this system, consumers are offered a one-stop service experience, allowing them to keep their accounts with a single institution. Institutions can increase their commission income and customer loyalty while also making it more difficult for their customers to switch to a new provider. What should be the main features of a financial supermarket's Compliance Program? 1. Compliance with competition rules should be included in the company's constitution, i.e., its Code of Ethics, and the penalties for non-compliance should be specified. 2. The company should have a competition policy, and its details should be well defined. 3. The company should have a comprehensive and effective competition training policy, and should not hesitate to allocate resources to this area if necessary. 4. The average finance employee must know dozens of regulations and comply with them, while also having an intense and goal-oriented work schedule. Therefore, it is difficult to capture the interest of an employee in the finance world; training should be made interesting, conducted in person when necessary and online when necessary, and should take advantage of technological capabilities. In summary, everyone from the security guard at the door to the chairman of the board must be aware of the rules of competition. 5. Competition Law Advisory should be placed under the Compliance or Legal department, but regardless of which department it is in, it must have the authority, scope, and financial resources to address the competition risks identified by the competition law advisor.

		6. Since the unit we are discussing is a financial supermarket, we are talking about a group of at least 6-7 companies. This means a comprehensive burden, and it may be a good solution to work with a specialized law firm that can review the opinions here as a second pair of eyes, as well as having a team inside. 7. Regular and effective monitoring of employees' computers and electronic devices must be carried out, and employees must always feel the cold breath of monitoring on their necks. 8. You can design the world's best Compliance Program; it is possible, but if there is no will to implement this program, if top management lacks the motivation and ability to comply with this discipline, then you can throw your beautiful program in the trash. Barriers and Difficulties to Success 1. Those who ask why we are investing in this area when there is no investigation, so why waste money. 2. Those who try to blame their own failures on you; according to them, the reason they cannot get the job is the strict regulations of the competition compliance group, when in fact the reality is different. 3. Competition law requires expertise, so management doesn't know enough about it and shirks responsibility, dumping the entire burden on the competition compliance team. 4. Even though what you say appears to be supported by upper management, they continue to do what they know and ruin everything. 5. The competition compliance team is not sufficiently valued, and what they say is ignored. CONCLUSION In Turkey, the competition compliance risk for even the smallest financial supermarket is no less than 10 billion TL, and this figure is not a risk that any enterprise can afford to ignore. Compliance is a process that evolves with experience, and the system must constantly renew and question itself. Therefore, the competition compliance program, which is criticized as “why invest so much effort,” may one day allow you to happily grow your balance sheet while your competitors face billion-dollar fines.
85.	A New Framework for Competition Law in the Age of Artificial Intelligence: Index	While a significant portion of attention in competition law remains focused on visible behaviors such as favoritism, bundled practices, and exclusivity in search and mobile ecosystems, could these issues in the coming period be merely surface reflections of a deeper, structural problem: ' *Control of Data Access Infrastructure,' which is silently shaping who can and how participate in the information economy* ? Google's web index, encompassing tens of billions

	Access Neutrality and Informational Price Squeezing	of pages, is no longer just a product; it has already become a fundamental upmarket input on a global scale for AI models that require up-to-date and high-quality web data. While interventions to date have targeted overt forms of discrimination, could a more subtle and persistent exclusionary mechanism be emerging: asymmetry in informational access. A dominant platform may implicitly allocate data quality and access costs to its own advantage. Over time, internal systems (e.g., Gemini) may gain access to richer, more up-to-date, and lower-latency data compared to external AI providers like OpenAI or Anthropic, while formal access channels remain open on paper. This can lead to an invisible divide between both service providers and end-users who use these services in isolation. Competitors in the AI services space may find themselves less positioned, not because their algorithms are weaker, but because their informational inputs are corrupted or become more costly. Could this dynamic be interpreted from the perspective of a price squeezing type of breach? Similar to margin squeezing in the telecommunications sector, could an undertaking acting as a gatekeeper in data infrastructure also implement informational price squeezing? Could it do this by imposing monetary costs, technical restrictions, or delays in data freshness on other actors while maintaining near-zero-cost access for its own internal systems? Equally efficient competitors may be unable to compete with the dominant undertaking's performance in the sub-market due to both increased costs and decreased quality of inputs. This study attempts to propose two complementary doctrines that address the emerging risk: i. Index Access Neutrality : A principle of non-discrimination that ensures equality in terms of data freshness, latency, and coverage between internal and external accesses to the same web index. ii. Informational Price Squeezing : A cost-equity principle aimed at preventing a dominant undertaking from artificially gaining an advantage in its internal AI activities through access pricing, speed limits, or anti-bot barriers. These two approaches aim to capture the dual dimensions of abuse, namely quality and cost. Within this framework, discrimination in terms of informational quality or cost can be considered a functional refusal to engage.

		Existing regulatory tools contain embryonic possibilities for such surveillance: examples include section 6(12) of the EU Digital Markets Act, which provides for equality in access to data, and the UK Strategic Market Status (SMS) regime, which authorizes intervention in algorithmic behavior. However, with a shift in political winds, it seems highly likely that gatekeepers will consolidate their infrastructural dominance by hiding behind the discourse of national competitiveness. This situation necessitates a paradigmatic shift: the mandatory consideration of large web indexes and ensuring neutrality in access, both in terms of quality and cost. While it seems difficult for open index consortia such as OpenWebSearch.eu, Brave Search, and Common Crawl, or other alternative sources, to technically create a compensatory counterforce, they need to be supported by enforceable equality rules. Otherwise, global AI systems risk becoming epistemically dependent on the data flow of a single entity or a few dominant undertakings in their respective fields. Therefore , competition law must evolve beyond what is visible (self-serving) and become a structure that also monitors the invisible boundaries of information when necessary.
86.	The Impact of Data Dominance on Competition in Digital Markets	As a natural consequence of developing technology and increasing internet usage, data has become an input as important as capital for businesses operating in digital markets. [156]Therefore, businesses with large volumes of data are in a more advantageous position compared to their competitors, and have the opportunity to increase their market power by using the data they possess. In other words, the competitiveness of businesses in digital markets is shaped by their access to data and how they can use this data to create innovative services or products.[157] For businesses possessing big data, a critical input in digital markets, the high market share and competitive advantage stemming from data ownership can also give rise to competitive concerns. One of these concerns, which has been the subject of investigation by numerous competition authorities in recent years, is the problem of established businesses in the market preventing their competitors from accessing their data. [158]Another issue scrutinized by competition authorities is the obstruction of competitors' activities by dominant businesses in digital markets through the aggregation of data from their various platforms. Regarding the obstruction of competitors' data

[156]Burcu Çalışkan Olgun, 2022, *The Problem of Data Access in Digital Markets and its Possible Solution* , Competition Authority Expert Thesis, p. 1; *Meta* (20.10.2022, 22-48/706-299), para. 242.
[157]age, p. 14.
[158]age, p. 1.

		access by dominant businesses, competition authorities investigate two situations: (i) the direct rejection of competitors' requests and (ii) the obstruction of data portability. The direct rejection of competitors' requests is considered under the category of refusal to enter into a contract, which is one of the exclusionary behaviors of dominant undertakings. Although data-driven market power and digital markets have been scrutinized more closely in recent years, investigations into the rejection of competitors' data access requests have also been seen in the past in the European Union's competition law, in the Magill [159]decision concerning television broadcast schedule information, in the IMS Health [160]decision concerning databases related to the sale of pharmaceuticals and medical products, and in the Microsoft [161]decision concerning interface information related to certain software products. In addition, in relatively more recent decisions, competition authorities have examined the practices of dominant undertakings that hinder competition by restricting data portability. For example, [162]investigations conducted by the US Federal Trade Commission [163]and the European Commission, as well as decisions of various competition authorities such as those in Canada [164]and Brazil, [165]have examined competition concerns arising from the restriction of data portability. Similarly, the restriction of data portability, which was first investigated by the Turkish Competition Authority in the Bilsa decision, [166]has also been the subject of penalties in the more recent Nadir Kitap [167]and Sahibinden decisions.[168] Besides preventing competitors from accessing data, another emerging competitive concern is data aggregation practices. Data aggregation, which manifests itself in dominant undertakings collecting data from users disproportionate to the service they offer, requesting data that is not necessary for the service, and increasing their

[159] *RTE&ITP (Magill),* Case C-241-242/91 P [1995] ECR I-743.
[160] *IMS Health v. NDC Health* , Case C-418/01 [2004] ECR I-5039.
[161] *Microsoft* , Case COMP/37.792 [2004].
[162] https://www.ftc.gov/news-events/news/press-releases/2013/01/google-agrees-change-its-business-practices-resolve-ftc-competition-concerns-markets-devices-smart (Last accessed: 17.11.2025)
[163] https://www.ct-tc.gc.ca/en/cases/decision-summaries/documents/CT-2011-003%20Summary.pdf?zoom_highlight=toronto+real+estate+board%23search=%22toronto%2real%20 (Last accessed: 17.11.2025)
[164] https://ec.europa.eu/commission/presscorner/detail/en/ip_10_1624 (Last accessed: 17.11.2025)
[165] https://www.gov.br/cade/en/matters/news/bradesco-enters-into-an-agreement-with-cade-regarding-an-investigation-of-anticompetitive-practice-against-guiabolso (Last accessed: 17.11.2025)
[166]Competition Board's decision on Bilsa (21.03.2007, 07-26/238-77).
[167]Competition Board's Rare Book decision (07.04.2025, 22-16/273-122).
[168]Competition Board's decision regarding Sahibinden (17.08.2023, 23-39/754-263).

		market power through the collected data, leading to exclusionary results for competitors, is also subject to investigation by competition authorities. For example, Meta's (Facebook) data aggregation practices with its subsidiaries have been investigated by the Competition Authority, as well as by competition authorities in the US and the European Commission, and in Germany, Australia, India, France, Argentina, Brazil, and the UK. Furthermore, in June 2025, the Competition Authority launched a new investigation into data aggregation practices between Kariyer.net and *isinolsun.com , which operate within the same economic entity* .[169] This document will provide a comparative analysis of the perspectives of the Turkish Competition Authority and competition authorities worldwide regarding the abuse of dominant position based on data.
87.	An Assessment of the Effectiveness of the Technology Undertaking Exemption: The Role of Turnover Thresholds in Combating Killing Buyouts, Alternative Approaches, and the Competition Authority's Application Experience	In 2022, the Competition Authority made a significant amendment to the Communiqué No. 2010/4 on Mergers and Acquisitions Requiring Authorization from the Competition Board (" **the Communiqué** ") by adding the definition of "technology undertakings" to the Communiqué, thereby expanding the notification obligation criteria for transactions involving these undertakings. Accordingly, the thresholds of 250 million TL stipulated in subparagraphs [170](a) and (b) of the first paragraph of Article 7 of the Communiqué are not required for acquisitions of technology undertakings operating in the Turkish geographical market, conducting R&D activities, or providing services to users in Turkey (in short, the "Turkish connection condition"). By subjecting acquisitions of technology undertakings to oversight, the Competition Authority aims to prevent "killer takeovers," which involve the acquisition of newly established or developing ventures, and transactions carried out by undertakings with significant market power in digital markets. In parallel with the legislative changes in our country, several changes have been introduced in many jurisdictions regarding the control of mergers and acquisitions, based on the same concerns. For example, in various European Union (" **EU** ") member states, primarily Germany and Austria, a transaction value threshold has been implemented in addition to the turnover threshold. [171]Furthermore, in countries such as France, the Netherlands, Italy, Denmark, Hungary, and Sweden, competition authorities have the " *call-in power,* " meaning they can call on undertakings to

[169]Decision No. 25-22/518-M of the Competition Board dated 12.06.2025.
[170] Digital platforms refer to enterprises or entities operating in the fields of software and game software, financial technologies, biotechnology, pharmacology, agricultural chemicals, and health technologies ("technology sectors").
[171] https://www.rekabet.gov.tr/tr/Guncel/rekabet-kurulundan-izin-alinmasi-gereken-82269c8a8f9bec11a21c00505685ee05 (Last accessed: 09.12.2025)

		report transactions that show the potential to hinder competition in a significant part of the country, or they are preparing draft legislation in this regard. [172]In EU practice, to prevent killer acquisitions, [173]as seen in the Illumina/Grail example, Article 22 of the EU Mergers and Acquisitions Regulation has been interpreted broadly to request the European Commission to investigate even unreported transactions; however, this practice has been blocked by the European Court of Justice. Another example from EU practice is the application of the Towercast doctrine, which concerns *the ex post* investigation of mergers and acquisitions carried out by dominant undertakings in cases of abuse of dominant position . [174]Finally, Article 14 of the EU Digital Markets Act (" **DMA ") obligates undertakings designated as "** *gatekeepers "* under the DMA to report all acquisitions of essential platform services to the European Commission. In this context, several different regulations have been introduced, some with parallel effects, specifically aimed at combating killer acquisitions in the digital realm. In Turkey, since the amendment to the Communiqué in 2022, the technology undertaking exemption has been applied to at least 200 transactions. [175]A year-specific review shows that transactions falling under the technology undertaking exemption constitute approximately 20% of all transactions reported to the Competition Board in the last two years (2023 and 2024). Considering the time elapsed since the regulation came into effect and its widespread application, we believe that now is an opportune time to examine the Competition Board's application of the technology undertaking exemption to assess whether its current application and results are entirely consistent with the aims intended by the regulation, to evaluate its advantages and disadvantages compared to the alternative options listed above, and to consider possible improvements in this regard. Indeed, when examining transactions reported under the technology undertaking exception, it is observed that only a few of these transactions were conditionally approved, but the concerns raised in these transactions were generally not related to kill takeovers. [176]Furthermore, in a small number of transactions, while a majority vote decided that the transaction did not raise competition concerns, dissenting opinions were issued because no assessment was

[172] https://www.hoganlovells.com/en/publications/call-in-the-merger-cavalry-how-new-intervention-powers-are-transforming-merger-control (Last accessed: 09.12.2025)
[173]European Union Court of Justice, Illumina/Grail (C-611/22, C-625/22), 03.09.2024.
[174]European Union Court of Justice, Towercast (C-449/21), 16.03.2023.
[175]The reasoned decisions published on the Competition Authority website as of December 9, 2025, have been examined.
[176]Param/Kartek (27.12.2024, 24-56/1241-531), Doğan Portal/Liderform (27.06.2024, 24-27/652-271), Kariyer.net/Brotek (04.06.2024, 24-24/556-236), Bupa/Compugroup (29.02.2024, 24-11/174-69).

		made as to whether the transaction constituted a kill takeover. [177]Finally, in the very few transactions where the technology undertaking exception was applied, the transactions were approved in accordance with the commitments made by the undertakings to the European Commission. [178]When the decision statistics are evaluated, it is seen that competition concerns were addressed in a very limited number of transactions among the numerous transactions reported under the technology undertaking exception. However, there are opinions that, in the global merger and acquisition practice, the number of competition concerns that can be identified as a result of regulations introduced by other competition authorities, as in Turkey, to prevent kill takeovers will be limited. [179]Accordingly, it can be said that this alone is not a negative outcome from the regulatory perspective. However, in our opinion, the widespread application of the exception at this level also has some consequences that do not fully align with the purpose of the regulation. For example, when examining the Competition Board's decisions applying the technology undertaking exemption, it is seen that approximately 60% of them involve transactions between undertakings not established in Turkey. This result can be said to be in line with the Competition Board's rather broad interpretation of the connection element with the Turkish market within the framework of applying the technology undertaking exemption. Indeed, in *the Berkshire/Alleghany* [180]decision, the Competition Board stated that even if the Turkish activities of companies that are global technology undertakings are not related to "technology" sectors, this is sufficient for the application of the exemption. In addition, when examining the decisions applying the technology undertaking exemption, it is seen that the exemption also covers many venture capital transactions. [181]Since the investment values in such transactions are generally small and the transaction needs to proceed very quickly, it can be said that the notification obligation creates a significant additional transaction cost for these transactions. In this context, it can be debated whether adopting alternative practices such as transaction value thresholds or the authority to summon below-threshold transactions for review, instead of stricter turnover thresholds, would be preferable to reduce the workload of the Competition Authority.

[177]Take Two/Color Block Jam (31.07.2025, 25-28/665-403), Apple/UAB Pixelmator (06.02.2025, 25-04/99-56), Google/Galileo (16.01.2025, 25-02/62-37).
[178]Synopsys/Ansys (06.03.2025, 25-09/202-103), Microsoft/Activision Blizzard (13.07.2023, 23-31/592-202).
[179]Barnett, Jonathan M. (2024) ""Killer Acquisitions" Reexamined: Economic Hyperbole in the Age of Populist
Antitrust," The University of Chicago Business Law Review: Vol. 3: No. 1, Article 2.
[180]Berkshire/Alleghany (09/15/2022, 22-42/625-261).
[181]For example, Foneria/Kablotek-KT Kablo (18.04.2025, 25-15/356-170), Albaraka/Valenspara (27.03.2025, 25-13/309-147), Albaraka/Millenicom (19.09.2024, 24-38/910-391), İhlas/Kuantum (04.07.2024, 24-28/672-277).

		However, upon closer examination, these alternative arrangements also have other disadvantages, such as failing to scrutinize small-scale but potentially competitively risky transactions or creating legal uncertainty for mergers and acquisitions, which require careful consideration. Within this framework, the Communiqué will examine (i) the Competition Board's current jurisprudence regarding the interpretation of the technology undertaking exception, particularly in relation to Turkey, (ii) subsequently, the alternative regulations listed above will be examined and their advantages and disadvantages will be evaluated, and (iii) finally, conclusions will be drawn regarding potential improvements to the current regulation.
8 8.	Regulation and Self-Regulation as Alternatives to Classical Antitrust in Digital Markets	Worldwide, three approaches to regulating the activities of digital platforms can be observed: (i) classical antitrust regulation; (ii) regulation separated from competition law, universal in nature, establishing ex ante requirements and prohibitions; and (iii) targeted regulation aimed at addressing specific problems in particular digital markets. In addition to state regulation, self-regulation in various forms is also increasingly emerging as an option. Classical antitrust is not always well suited to the realities of digital markets, which are often characterized by the absence of a price for the product, the presence of network and platform effects, coordination of multiple interrelated groups of customers, the central role of data rather than traditional assets, and a high degree of dynamic change, among other features. Türkiye, alongside a number of other countries, is pursuing this path, as evidenced by recent cases against Google and other digital platforms considered by the TCA. Given the shortcomings of classical antitrust, the EU, and subsequently the United Kingdom, adopted acts of direct application that are formally separated from competition law and that establish prohibitions and restrictions for key digital platforms (the DMA and the DMCC). The DMA/DMCC have a number of advantages, including the direct regulation of specific practices of digital platforms, as well as shorter timeframes for investigations and the imposition of fines. At the same time, their adoption and implementation required a considerable amount of time. In addition, non-compliance with the DMA/DMCC requirements is investigated within the framework of administrative procedures similar to competition law investigations, and the resulting decisions are also subject to judicial review, which likewise entails lengthy timeframes.

		Given the difficulties in applying the DMA to digital platforms, as evidenced by non-compliance proceedings initiated by the EU Commission against Google, Apple, Amazon and Meta, it remains to be seen whether the DMA/DMCC can indeed serve as a "role model". As an alternative to the adoption of such comprehensive acts as the DMA/DMCC, targeted regulation of specific problems in digital markets may be implemented through the adoption of special laws aimed at suppressing particular practices of digital platforms. The pioneer in this respect was Russia, where regulatory provisions exist concerning the pre-installation of domestic applications and services. Examples of targeted regulation of digital platforms also exist in other countries (China, Indonesia). Standing apart is Japan, where Law No. 518 "On the Promotion of Competition in the Field of Certain Smartphone Software" was adopted in 2024. Unlike the DMA/DMCC, the SSCPA focuses exclusively on mobile ecosystems, which aligns it with targeted regulation analogous to the Russian pre-installation requirements. In Russia, unlike other jurisdictions, self-regulation in digital markets is also actively developing. In particular, the Federal Antimonopoly Service of Russia has developed the Principles of Interaction between Participants in Digital Markets (the "Principles"), which have been joined by the key Russian IT companies. My view is that a balance between competition law, targeted regulation and self-regulation of digital markets seems like a better approach than the other options existing worldwide. This combination, which is taking shape in Russia, should ensure an appropriate balance between public and private interests and is capable of preventing distortions of competition while at the same time not harming innovative development.
89.	How Should Fairness Be Calibrated in Digital Remedies for Platform Markets? A Mechanism-Oriented Comparison of EU and Chinese Competition Governance	Academic debates in digital platform antitrust enforcement have largely concentrated on the identification of monopolistic conduct. By contrast, far less attention has been devoted to the design of effective remedies once such conduct has been established, notwithstanding their central role in achieving the objectives of competition law. Only in recent years have theoretical and practical questions surrounding antitrust remedies attracted broader scholarly and institutional attention. This imbalance has become increasingly problematic in digital markets. Digital platforms capitalize on network effects, data advantages, and algorithmic mechanisms to generate novel forms of structural market power, posing

		fundamental challenges to antitrust remedies largely centered on ex post enforcement. As demonstrated by recent landmark cases from the EU and China, including Alibaba, Meituan, and Google Shopping, remedies in practice continue to be largely confined to heavy fines and case-specific behavioral commitments. Such an enforcement model is ill-suited to safeguarding opportunities for entry, visibility, switching, and innovation essential to fair competition in digital platform markets. Faced with similar structural challenges, the EU and China have developed distinct regulatory configurations. The EU has adopted a dual-track approach combining ex ante regulation and ex post enforcement, while China has pursued a more flexible pathway integrating enforcement, administrative guidance, and soft law governance. Despite these institutional differences, both approaches exhibit convergent dilemmas in remedial effectiveness and practical outcomes. This convergence gives rise to a central question: how can the institutional frameworks of EU competition law and Chinese antitrust law be recalibrated to better reflect mechanisms through which competitive harm arises in digital markets? More specifically, how can a mechanism-oriented and adaptive antitrust remedial framework address the systemic challenges posed by platform markets? To answer this question, the paper develops an analytical framework for assessing competitive harm in digital platform markets anchored in the competitive process. It identifies four core conditions for fair competition and examines how they interact with key platform characteristics, including network effects, algorithmic and default biases, switching costs, and data advantages. Building on this interaction, the paper analyzes how platform operators leverage these characteristics to distort competitive conditions and weaken competitive processes. Drawing on this analysis, the paper distills four mechanisms of competitive exclusion and restriction: entry and expansion exclusion, attention bias, lock-in, and data barriers. Their underlying logic and practical manifestations are illustrated through case studies from prominent EU and Chinese platform enforcement decisions. On this basis, the paper proceeds to a normative assessment of how EU and Chinese institutional frameworks respond to competitive harm in platform markets. The EU has established a dual-track framework combining ex ante regulation and ex post enforcement under the Digital Markets Act. By comparison, China has developed a more flexible approach integrating enforcement, administrative guidance, and soft law governance. While these pathways diverge in remedial configuration and institutional design, both remain insufficient to address structural competitive harm in platform markets.

		Against this background, the paper advances an “Adaptive Remedies Framework” for digital platform antitrust enforcement. The framework urges enforcement authorities to shift from conduct-based remedy design toward a mechanism-oriented analytical approach. It requires identifying the relevant exclusionary or restrictive mechanism, assessing which competitive conditions are undermined, and strategically allocating and combining sanctioning, restorative, regulatory, and structural remedies according to their functional logics. Through this approach, the framework aims to establish a coherent basis for achieving equitable remedies in digital platform antitrust enforcement and offers an analytical reference point for the long-term evolution of digital market governance in China and the EU.