

GEDİK & ERAKSOY

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Investigation into the Vertical Agreements of Coca Cola

A couple of months ago, the Turkish Competition Authority (**TCA**) received a complaint alleging that Coca-Cola Satış Dağıtım A.Ş. (**Coca Cola**) makes exclusive agreements with its final sales points in various regions of Turkey, especially in the cities of İstanbul, Ankara, İzmir, Bursa and Antalya. After a preliminary investigation, in 14 March 2014, the Turkish Competition Board (**TCB**) reached a conclusion that there are sufficient grounds to initiate an in-depth investigation against Coca Cola to examine the compatibility of these agreements with Act no 4054.

In principle, exclusivity restrictions (eg direct or indirect non-compete obligations) imposed on resellers are exempted by the TCA's Communiqué no 2002/2 on the group exemption for vertical agreements, if the supplier's market share does not exceed 40% for the products that are the subject of the agreement (and, if the non-compete obligation is limited to five years). However, in 2007, the TCB made it clear that Coca Cola's (or its dealers') exclusive agreements with sales points do not benefit from both the group exemption and the individual exemption. Therefore, the TCB will examine whether Coca Cola has breached this ruling. Recently Efes, the biggest brewery in Turkey, and Turkcell, the biggest mobile operator in Turkey, have been subject to monetary fines by the TCB on similar grounds.

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