

TURKISH COMPETITION AUTHORITY’S DECISION REGARDING THE ALTERATION OF WHATSAPP’S TERMS AND CONDITIONS

The Turkish Competition Authority’s (“Authority”) decision given within the context of its independent investigation initiated on 11 January 2021 on “Facebook’s terms and conditions with respect to Whatsapp users’ data to be used also for other services” has been published on the Authority’s website on 15 February 2021.

The Authority crucially indicates in its reasoned decision that; while using Whatsapp application, which is an online consumer communication means that provides written and/or verbal messaging, video and/or voice call services, users may share data of private nature or that may contain trade secrets. In this context, Whatsapp data are considered to be more confidential than social media content.

In accordance with the Law No.4054 on the Protection of Competition (“**Law**”), the Authority emphasizes the following concerns with respect to the obligation brought by Whatsapp to its users to share their data, which will be in effect as of 8 February 2021 and the use of the said data in other markets where Facebook operates:

- i. The fact that Whatsapp data are being linked to Facebook’s products and data,
- ii. The fact that Facebook uses its power in consumer communication services in a manner of obstructing the activities of its competitors in the internet advertising industry.
- iii. The fact that the excessive data collection and the use of such data for other services can be imposing on consumers.

Furthermore, the Authority also stated that considering the power of Facebook in consumer communication, social media services and online advertising services markets, the implementation of such practice by Whatsapp may cause serious and irreparable damages until that a final decision is reached by the Authority.

In conclusion, the Authority has taken an interim measure within the context of the article 9, paragraph 4 of the Law, **stating that Facebook should cease the conditions brought by Whatsapp new privacy rules for Turkish users, which will be going into effect as from 8 February 2021, in relation to the use of their data for other services** and decided that Facebook informs **all Whatsapp users in Turkey**, even they agree or not with the new conditions, that it has ceased the enforcement of such conditions.

Kind Regards,

Koyuncuoğlu & Köksal Law Firm

* As the explanations given in our newsletter are prepared pursuant to the legislation in effect in the Republic of Turkey and the disclosures made to the public by the relevant official authorities, in case of uncertainty, we advise you to seek advice and support from us before the final transactions are carried out. Otherwise, our Law Firm cannot be held responsible for the actions to be taken on the basis of the explanations contained herein and the consequences of such actions.