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**REGISTRATION DEADLINE TO IYS IS
POSTPONED: 01.12.2020!**



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REGISTRATION DEADLINE TO IYS IS POSTPONED: 01.12.2020!

With the Regulation Amending the Regulation on Commercial Communication and Commercial Electronic Messages, published on the Official Gazette dated 28.08.2020 (**Amending Regulation**), the deadline for service providers to register with Commercial Electronic Message Management System (**IYS**) have been determined as **01.12.2020**. In this context, acquired consents should be transferred to IYS by service providers till **01.12.2020**. The date for the recipients to check the consents registered to IYS is determined as **16.01.2021**.

Commercial electronic messages have been regulated on the Law on the Regulation of Electronic Commerce (**Law**) and the Regulation on Commercial Electronic Messages (**Regulation**). Essential amendments have been made regarding the practice of commercial electronic messages with the Regulation Amending the Regulation on Commercial Communication and Commercial Electronic Messages, published on the Official Gazette dated 04.01.2020. With this amendment, the Commercial Electronic Message Management System (**IYS**), which has been proposed by the Law since the Law's amendment on 2017 but not realized until the Amending Regulation, was established.

According to regulations on IYS, service providers have been deemed responsible for registering with IYS and transferring their current databases (the consents already been taken from the recipients) to IYS, to ensure that approval and refusal rights and the process of complaints are carried out through IYS. Subsequently, the recipients shall check to consent. Such deadline was postponed to 16.01.2021 with the Amending Regulation.

Following the registration deadline, a message should be sent to recipients indicating that the consents were transferred to IYS and in case such consents are not checked by the recipients till 16.01.2021, they shall be deemed valid and also the right of refusal can be directed via IYS. As to, recipients are obliged to check the consents transferred to IYS till 16.01.2021. In case recipients do not exercise their right of refusal, the data transferred to IYS shall be deemed verified.

Ministry of Commerce has been authorized to postpone these dates for six months, considering the qualification of services providers and the massiveness of the consent numbers.

It is essential for service providers to conclude this process as the consents not transferred to the IYS will be deemed invalid. Therefore, it should be kept in mind that continuing to send commercial electronic messages even though no transfer has occurred may lead to administrative penalties for service providers.

For our other articles on the main regulations with regards to IYS, see also – [New Era on the Commercial Electronic Messages: MMS](#) and [Deadlines for Electronic Message Management System are Postponed](#).

AMENDMENTS TO INTERNET LAW NUMBERED 5651

As a significant improvement over the past month, The Amendments Law in the Law on Regulation of Publications on the Internet and Combating Crimes Committed by means of Such Publication (**Internet Law numbered 5651**) was published in the Official Gazette on 31 July 2020 (**Law**). Nevertheless, and some provisions entered into force on 31 July 2020.

In conjunction with The Law, “**the social network provider**” concept has been defined in legislation for the first time and some fundamental obligations have been arranged. The social network provider has been defined under the Law as; “real and legal persons who enable users to create, view or share content such as text, image, audio and location on the internet environment with the purpose of social interaction”. In the context, the social media platforms which previously have been designated as hosting service provider or as occasion requires, content provider, will acquire an additional designation along with the amendments made with the Law. In other words, the hosting providers’ and content providers’ obligations of the social network providers will be still valid, however, number of obligations will be entered into force as the social network provider.

In context of The Law, social network provider whose daily access from Turkey is more than one million shall determine at least one natural person or legal entity as a representative in Turkey for assurance the implementing of their obligations. If the representative will be natural person, it must be a Turkish citizen. The most disputable point of the arrangement is that the social network provider, who failed to implement this obligation, will be imposed with the administrative fines and the sanction of which reduce internet traffic bandwidth by 50% in the first phase and 90% in the second phase.

According to the Law, further obligations have been entered into force for social network providers. Social network providers residing abroad or residing in Turkey whose daily access from Turkey is more than one million are obliged to respond positively or negatively to applications for violation of personality rights under Article 9 of Internet Law numbered 5651 and violation of privacy under Article 9/A of Internet Law numbered 5651, within 48 hours at the latest. In addition, social network providers are obliged to submit to Information and Communication Authority (**ICTA**) every 6 months a report containing statistical and categorical information regarding the decisions to remove content and block access and applications of persons for the violation of personal rights and violation of privacy. As another important obligation, relevant social network providers are obliged to take necessary measures to host users' data in Turkey. Other than, in case of that the content is not removed or access is not blocked within 24 hours, even if the content is notified to the social network provider, which is determined to be unlawful by a judge or court order, the social network provider shall be obliged to compensate for the damages caused and the content provider shall not be liable for such damages or be sued by the content provider. As per transition provisions of the Law, the definition of the social network providing and the obligations for social network providers will enter into force on 01 October 2020.

As another novelty, the electronic notification method is adopted for subject based abroad and the administrative fines can be notified with e-mail or other means of communication to the addressee directly by ICTA if the addressee is abroad. This notification shall be deemed as notice made under the Notification Law and it shall be deemed that the notification has made at the end of fifth day following the making day. Thus, the notification of the administrative fines to abroad and the applicability of the sanctions will be eased.

One of the major changes in the scope of the Law is that the person, whose personality right is violated, may apply to the court to prevent the association of the name with the infringing websites. The relevant amendment is a fundamental regulation concerning the “right to be forgotten”, which is based on many case law abroad and which has recently been pointed out by the Appeal Court in our country.

It is possible that the practical reflection of these amendments is one of the agendas that will continue to be discussed within the following days.

For another article on the amendments to The Internet Law numbered 5651, see [The Amendments to The Law numbered 5651](#).

Recent Developments in Technology World

Internet domain name allocation authorization transferred to ICTA

Middle East Technical University (**METU**) has been managing the allocation and transactions of domain names with “.tr” extension through Nic.t system, with the ICANN and IANA guidance acting in the capacity of "Registration Authority" in Turkey since 1991. However, with the agreement signed by ICTA on 21.12.2018, the Registration Authority for the domain names with ".tr" extension has transferred its authority to ICTA. Under the agreement, it was stipulated that in 2020, the Nic.TR system would be closed and the ".tr Network Information System" (**TRABİS**) would be put into operation instead of this system. With the decision of ICANN, it has been announced that TRABİS operate as of August 2020. From the moment TRABİS initiates its operations, it will be necessary to perform the new domain name allocation and renewal of existing domain names through TRABİS.

Digital Platforms Commission has been established

The Law No. 7252 on the Establishment of the Digital Platforms Commission and the Amendment of Certain Laws (**Omnibus Law**) entered into force after being published in the Official Gazette dated 28.07.2020. The Omnibus Law envisages the establishment of a Digital Media Commission (**Commission**) within the parliament. In brief, the purpose of the Commission is to prevent the use of the internet in violation of laws, personal rights of individuals, privacy of private life and other fundamental rights and freedoms, or in a way that is harmful to the physical and psychological development of children, to take measures for crimes committed over the internet and to carry out certain inspection, review, reporting and presenting advice and opinion duties regarding the work and transactions in domestic or abroad. With the Omnibus Law, the Commission is authorized to request information and documents from relevant public institutions and organizations, content providers, access providers and hosting providers, and real persons and legal entities within and outside the country operating under the Law numbered 5651, and to receive information from those concerned. The establishment of the Commission indicates that the increasing use and importance of digital platforms are now recognized by the legislature and that the vision of bringing a regulatory framework reflecting today's conditions for these platforms is prevalent.

“E-Marketplace Platforms Sector Review” was initiated by the Competition Board

The sector review was initiated by the Competition Board for the E-Marketplace Platforms with the decision dated 11.06.2020 and numbered 20-28 / 353-M and the review was announced to the public on 16.07.2020. In the statement made by the Competition Board, it was noted that, in particular, the existence in the market of E-Marketplaces Platforms of both platform owners and vendors raises concerns of abuse (especially exclusionary and/or exploitative practices). Since this sector has different competitive dynamics, it was also stated that the investigation was initiated to understand these dynamics and to develop effective policies. Within the scope of the review, not only platforms but also consumers/suppliers trading on platforms are also included. As a result of this review, it is seen that the Competition Board aims to introduce a new system that deviates from the conventional regulatory framework by analyzing the sector dynamics.

Google, Amazon, Apple and Facebook attended antitrust hearing

Jeff Bezos, Mark Zuckerberg, Sundar Pichai and Tim Cook, CEOs of Amazon, Facebook, Google and Apple consecutively, one of the largest technology companies in the world, attended the antitrust (anti-monopolization) hearing of the US House of Representatives Judicial Committee. All four companies face different accusations: (i) for Amazon, the applications that will cause unfair competition in favor of their products through Amazon, and prevent sellers from selling on other platforms, (ii) for Facebook, the user data and high advertising prices, (iii) for Google, beginning to monopolize the search engine and advertising areas on Android and (iv) for Apple, charging high commission fees on App Store payments. Such accusations faced by technology giants underline that both the competition dynamics and personal data processing activities relating to commercial activities carried out on digital platforms cannot be assessed within the conventional framework and a regulatory framework should be established in order to protect the interests of both businesses and consumers in a balanced manner.

Answers. Not theories.

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About our firm

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, debt recovery, real property, and commercial litigation. Please visit our web site at www.gokce.av.tr for further information on our legal staff and expertise.

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