

THE

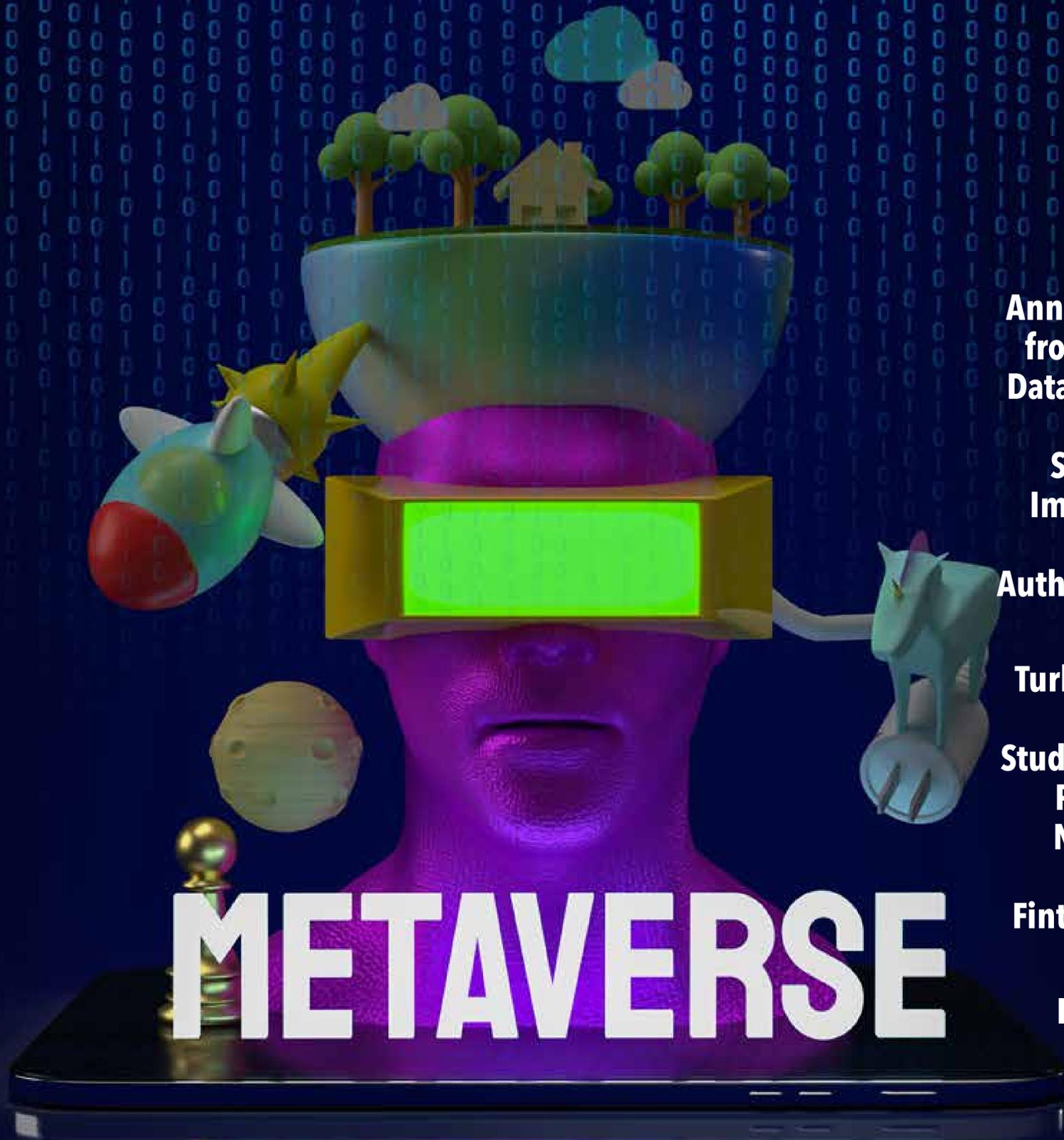
Gökçe

Fine PRINT

November 2021

96

THE NEW FACE OF VIRTUAL REALITY:



**A New
Announcement
from Personal
Data Protection
Authority:
Still Haven't
Implemented
Two-Factor
Authentication?**

**Turkey Fintech
Overview
Study Has Been
Published!:
Noteworthy
Rise of the
Fintech Sector!**

**Latest Legal
News**

The New Face of Virtual Reality: Metaverse

The concept of metaverse has become one of the hot topics recently after Facebook CEO Mark Zuckerberg announced that the company had changed its name to "Meta" and that Meta would focus on metaverse projects.

What is metaverse? Briefly, the metaverse can be defined as a shared virtual universe which can be experienced simultaneously and in integration with the physical world, through the use of technologies such as augmented reality, virtual reality and blockchain.

We need to emphasize the fact that currently the technological capability and infrastructure to implement Metaverse does not exist. However, some of the technologies that will be used to create the Metaverse are currently in use; such as blockchain, NFTs (Non-Fungible Tokens), multiplayer games, virtual reality/augmented reality technologies.

Current developments: On the development of Metaverse, not only Meta, but also technology giants such as Microsoft and Epic Games, as well as governments, are conducting various studies. In this context, Microsoft announced its Mesh for Teams app, which combines the functions of its mixed reality app Microsoft Mesh and video conferencing app Teams. Accordingly, users participating in meetings via Teams will be able to use their own three-dimensional avatars and animations instead of camera images.

In the same direction, South Korea announced its "Metaverse Seoul" project and took a step towards establishing the first Metaverse virtual city. If this project is implemented, residents of the city will be able to carry out their local government-related works through virtual buildings in the Metaverse.

Another step for the development of Metaverse came from Barbados, an island nation. Barbados has announced that it will establish the first embassy in the Metaverse. Thus, Barbados will be the first country in the world to recognize digital sovereign territory.

With the implementation of Metaverse, many activities in our daily lives will be conducted in a virtual environment. This will bring forth the requirement for new regulations on several areas such as intellectual property, criminal law, human rights and consumer law, or determination of the implementation of current regulations towards Metaverse, as well as transforming legal services. One of the main issues we will encounter in the Metaverse is property rights. How can we prove our ownership of a digital asset? Intellectual property rights are especially important. How can we protect our rights such as trademarks and patents in Metaverse? How can we prevent IP rights violations? NFTs, which have been on our agenda recently at least as much as Metaverse, created similar discussions regarding IP rights.

Implications for criminal law for Metaverse should also be evaluated. What if a crime is committed on the Metaverse? For example, what can you do if a digital asset is stolen or scammed? Technological developments unfortunately offer various opportunities to people who want to use them for malicious purposes.

Another important issue is personal data. Metaverse is a system in which users interact with others by creating an "avatar" in a virtual environment. Thus, Metaverse requires the creation and transfer of a very serious amount of data. In this context, the protection of the personal data in Metaverse, the conditions under which this data can be processed, transferred, and what can be done in case of a breach are also subjects required to be seriously considered.

These are just a small part of the legal issues we might encounter in the Metaverse. To summarize, Metaverse is a project that needs to be closely monitored by everyone, including legal community.

A New Announcement from Personal Data Protection Authority: Still Haven't Implemented Two-Factor Authentication?

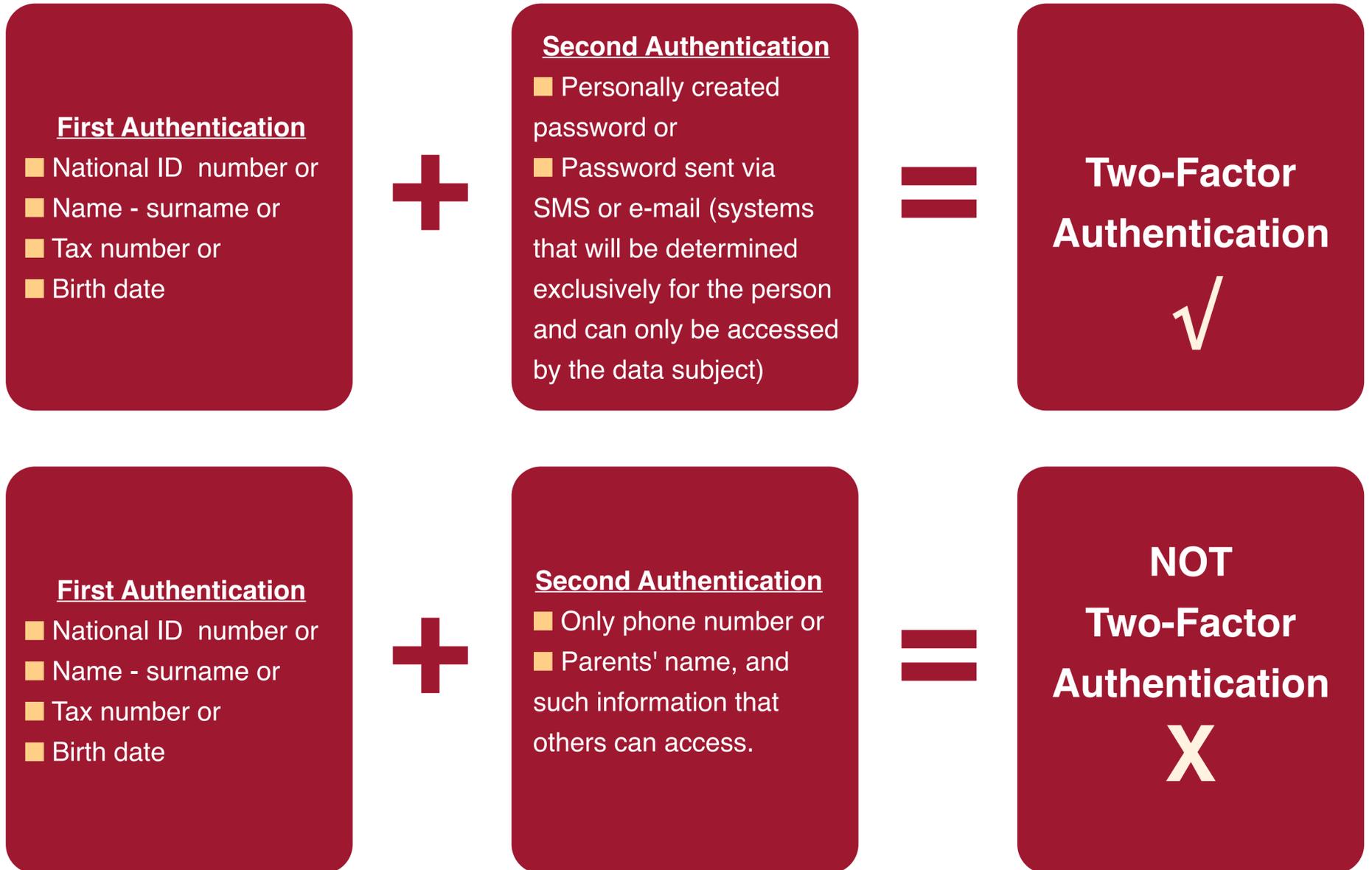
The public announcement (**Announcement**) that was published on Personal Data Protection Authority's (**Authority**) website on 5 November once again revealed how worthy two-factor authentication is. Announcement includes verification methods implemented by some municipalities while providing certain services and includes details of the decision given by Personal Data Protection Board (**Decision**) on these methods.

History of two-factor authentication: When data controllers contacted individuals via inaccurate e-mail addresses or phone numbers and sent documents containing data (such as invoices, receipts, reservation documents), these data could be illegally obtained by unauthorized third parties. In this context, Personal Data Protection Board (**Board**) ruled on a principle decision in December 2020 towards the personal data belonging to third parties which are sent in violation of the Personal Data Protection Law (**Law**). With this decision, Board made it mandatory to implement two-factor authentication or similar reasonable measures to confirm the accuracy of the contact information of the persons.

Upon this principle decision, some data controllers started to implement this verification methods, while others had not yet taken any action. The lack of measures began attracting the attention of the citizens and Board.

What do Announcement and Decision emphasize? In the notices sent to Authority, it was requested that accessing the real estate information of individuals in online property tax or declaration information inquiry pages by simply entering national ID number should be inspected in scope of Law.

Authority then examined the practices and in the Announcement, gave examples of practices that are in compliance with and contrary to Law:



With Decision, it was ruled that there was no deprivation of rights since there were no complaints on these practices against a specific municipality. However, since the practices contrary to Law continued, it has been decided to inform the Ministry of Environment, Urbanization and Climate Change and the Union of Municipalities of Turkey, **to remind the municipalities of the sanctions in Law, and to grant them 3 (three) months to reorganize their practices.**

It is as if Announcement and Decision are only intended for municipalities. However, by stressing how important two-factor authentication is and indicating which practices comply with and which are contrary to Law, they concern all data controllers. The fact that Board granted municipalities extra time to rectify their practices is an indication of all this. It is obvious that the issue is on the radar of Board and Authority, and data controllers who have not implemented this measure need to act quickly.

You can find the full text of Announcement [here](#) and full text of Decision [here](#) (only available in Turkish).

Turkey Fintech Overview Study Has Been Published!: Noteworthy Rise of the Fintech Sector!

Fintech, which has been on the agenda for the financial sector in recent years, is defined as “capitalizing digital technologies for presenting financial products and services in a practical manner and at a lower cost”. “Turkey Fintech Overview Study” (**Study**), prepared in cooperation with Presidency of the Republic of Turkey Finance Office (**Finance Office**) and Startups.watch, has been published on 12 November 2021. The Study reveals the progress of fintech ecosystem in Turkey since 2016. As per the statement made by Finance Office, the aim of the Study is to provide up-to-date and accurate data on the fintech sector to entrepreneurs and investors both in Turkey and abroad. In addition, it is announced that the Study will be updated periodically and continue to appear on the official website of the Finance Office.

You can find below the noteworthy data we have compiled from the Study:

- The number of fintech companies established in Turkey until 2021 is 589, and the number of those still operating as of November is 505. The establishment of 27 new fintech companies in 2021 alone, indicates the remarkable potential of Turkey in the fintech sector.
- Fintech investments have also been increasing regularly since 2019. In 2021 alone, the investment made in 24 companies in the sector reached 44.6 million USD, which approximately doubles the investment made in 20 companies in the previous year.
- The fintech sector, which maintains its importance for global investments, received a share of 91 billion USD from global investments in 2021 with an increase of 82% compared to the same period of the previous year.
- Among the companies operating in 12 different fields in the fintech sector, the companies operating in the payment field are in the forefront both in number and in terms of investment received. The reason for this is that the legal regulations in this area have been completed to a large extent.

All in all, the Study is expected to shed some light on the past and the future of the fintech sector in Turkey and contribute to the progress of the sector.

You can find the Study in [here](#). (only available in Turkish)

NATO Has Adopted AI Strategy

On 22 October 2021, North Atlantic Treaty Organization (**NATO**), of which Turkey is a member, announced that the allies had reached an agreement on NATO's first Artificial Intelligence Strategy (**Strategy**). The aim of the Strategy is “to accelerate AI adoption by enhancing key AI enablers and adapting policy, including by adopting Principles of Responsible Use for AI and by safeguarding against threats from malicious use of AI by state and non-state actors”.

Strategy emphasizes that due to the nature of AI, it could pose a comprehensive array of international security threats in the future and sets forth the “Principles of Responsible Use” for the use of AI. These principles were listed as lawfulness, responsibility and accountability, explainability and traceability, reliability, governability and bias mitigation.

Strategy also emphasizes the need for cooperation between NATO, the private sector and academia; a capable workforce; a robust and secure data infrastructure and appropriate cyber defenses for the implementation of the Strategy.

You can reach the summary of the Strategy [here](#).

Income Exemption Has Been Introduced for Social Content Producers and Application Developers

An income tax exemption for social content producers and application developers for mobile devices has been introduced with Law on Amendments to Tax Procedural Law and to Certain Laws (**Law**) published in the Official Gazette dated 26 October 2021.

In this context, income derived by social media content producers who share contents such as written texts, visuals, audio, or videos over social network providers on the Internet and income derived by those who develop applications for mobile devices such as smart phones and tablets through mobile application sharing and selling platforms, has been exempted from income taxation.

As per Law, to benefit from the exemption, a bank account must be opened at a bank established in Turkey and all revenues relating to such activities must be exclusively collected through this account. Thus, banks shall be withholding an income tax at a rate of 15% on the amount of revenue transferred to such accounts. On the other hand, those whose total income exceeds the fourth income tranche set forth in the Income Tax Law, shall not benefit from the exemption.

It is well known that the tax liabilities of content producers (influencers) who produce content on social media or provide advertising services have been the subject of discussion for a long time. It has been previously emphasized, through various means, especially with the rulings of the Revenue Administration and the regulations on digital services; that these individuals also qualify as taxpayers due to their income.

In conclusion, Law aims to introduce a practical and applicable way for taxing the income of the individuals who generate income from the digital economy. Consequently, it is possible to welcome this piece of legislation as a remarkable achievement in tax legislation's attempts at tracing and adapting to the developments in the digital economy.

You can find the full text of the Law [here](#) (only available in Turkish).

Personal Data Protection Authority and RTUK Initiated Joint Work for Violations in Broadcasts

The cooperation protocol (**Protocol**) was signed between the Personal Data Protection Authority (**Authority**) and Radio and Television Supreme Council (**RTUK**) and the announcement regarding that was published on the websites of Authority and RTUK on October 26.

It is stated in the announcement that Protocol was signed against the violation of privacy and easily disclosing personal data on radio and television broadcasts. It was expressed that especially in daytime shows, private lives of many people were being interfered with, their personal data was shared to entertain people and attract the attention of the audience and that these violations constituted criminal actions according to Personal Data Protection Law and Law on the Establishment of Radio and Television Enterprises and their Media Services. Ebubekir Şahin, President of RTUK, states that they have received many complaints regarding the disclosure of personal data in these radio and television broadcasts.

As can be seen, a joint work has been initiated to prevent the disclosure of private information and personal data in a way that can be accessed by everyone. A coordination unit will be setup within both institutions, and they will work together to organize training, seminars, workshops and similar activities.

You can find the full text of Announcement [here](#) (only available in Turkish).

Amendments to the Block Exemption Communiqué on Vertical Agreements: Changes in Market Share Rates

Various amendments were made to Block Exemption Communiqué on Vertical Agreements (**Communiqué**) with the communiqué published in the Official Gazette on 5 November 2021.

What Does a Vertical Agreement Stand For? Vertical agreements are defined as “*agreements made between two or more undertakings operating at different levels of the production or distribution chain for the purpose of purchasing, selling or reselling certain goods or services*”. In this context, agreements such as distribution, franchise, authorized service and dealership agreements between undertakings that do not compete with each other due to their position in the market can be considered within the scope of vertical agreements.

The purpose of the Communiqué is to exempt vertical agreements and concerted practices that meet certain conditions from the restriction of concluding agreements limiting competition, engaging in concerted practices and making decisions on association of undertakings regulated in the Law on the Protection of Competition (**LPC**).

What has changed? The market share of the supplier wishing to benefit from this block exemption is required to stay below 30% of the relevant market where it supplies the goods or services subject to the vertical agreement. This rate was 40% prior to the relevant amendment. In this context, the scope of the block exemption provided by Communiqué has been narrowed.

In a similar fashion, the relevant market share rate regulated under the Communiqué for the block exemption to continue to apply for a certain period in cases where the market share rate is exceeded, has been reduced from 45% to 35%.

When Does It Enter into Force? The amendments in the Communiqué entered into force subsequent to being announced in the Official Gazette. A transition period has nevertheless been arranged for these amendments to come into effect for those who were previously within the scope of the block exemption and are not covered by the amendments. In this context, a six-month period was granted to ensure that vertical agreements of the undertakings that fall outside the scope of the group exemption due to the amendments comply with the individual exemption conditions regulated in LPC. It has been stipulated that the prohibition against agreements restricting competition contained in LPC will not be applied to them during this period.

You can find the Communiqué related to the changes [here](#) (only available in Turkish).

Answers. Not theories.

Gokce Attorney Partnership

Editors:



Prof. Dr. Ali Paslı
ali.pasli@gokce.av.tr



Dr. Mehmet Bedii Kaya
bedii.kaya@gokce.av.tr



Elif Aksöz
elif.aksoz@gokce.av.tr



Yağmur Yollu
yagmur.yollu@gokce.av.tr

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.

Please contact us at
info@gokce.av.tr
0 212 352 88 33

The Fine Print is prepared and published for general informative purposes only and does not constitute legal advice or create an attorney-client relationship. Should you wish to receive further information, please contact Gokce Attorney Partnership. No content provided in The Fine Print can be reproduced or re-published without proper attribution or the express written permission of Gokce Attorney Partnership. While all efforts have been made to ensure the accuracy of the content, Gokce Attorney Partnership does not guarantee such accuracy and cannot be held liable for any errors in or reliance upon this information. The Fine Print was created for clients of Gokce Attorney Partnership and the possibility of circulation beyond the firm's clientele should not be construed as advertisement.