

New Fining Guidelines Has Been Published by the Turkish Competition Authority

(Guidelines on Fines to Apply in Cases of
Agreements, Concerted Practices and Decisions
Limiting Competition, and Abuse of Dominant
Position)



Introduction

On February 19, 2025 the Guidelines on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position by the Turkish Competition Board has been published. (“**Guidelines**”) For the official document, please visit the [link](#).


In the Guidelines it is indicated that as markets subject to competition law evolve, shifting business models and consumer preferences reshape the nature of violations and enforcement targets. The growing market power of large technology firms controlling critical assets such as user data, their expanding cross-border activities, and the risks associated with algorithms and data monopolization pose new challenges. In light of these developments, the Turkish Competition Board’s (“**TCB**”) sanctioning policy has been amended.

The Guidelines offer more detailed explanations on how fines are calculated pursuant to the Fining Regulation, with insights drawn from TCB’s decisions and examples. These clarifications include specific conditions under which various mitigating and aggravating factors are applied, providing a clearer understanding of how the TCB approaches penalty assessments.



Key Points

Significant aspects of the Guidelines are summarized below:

 **Calculation of Base Fine Rate:** As per the Guidelines, the determination of the base penalty rate considers various factors, including **(i) the nature of the infringement**, **(ii) the actual or potential harm it causes**, and **(iii) its duration**.

(i) The Nature of the Infringement:

Even though the regulation removes the distinction between cartels and other violations, a new categorization has been introduced for determining the base fine ratio: "naked and hardcore restrictions" and "other violations."

Accordingly, practices such as price-fixing among competitors, customer or market allocation, supply restrictions, and bid-rigging are expected to face stricter penalties compared to other violations.

(ii) The Actual or Potential Harm to Competition:

The severity may vary depending on factors such as:

-  The degree of actual implementation of the infringement
-  Its intensity and impact on market dynamics
-  The market position of the parties involved
-  The type of products and their indispensability
-  The geographical scope of the infringement



Key Points

(iii) Duration:

According to the Guidelines, the initial penalty rate is gradually increased based on the length of the infringement:

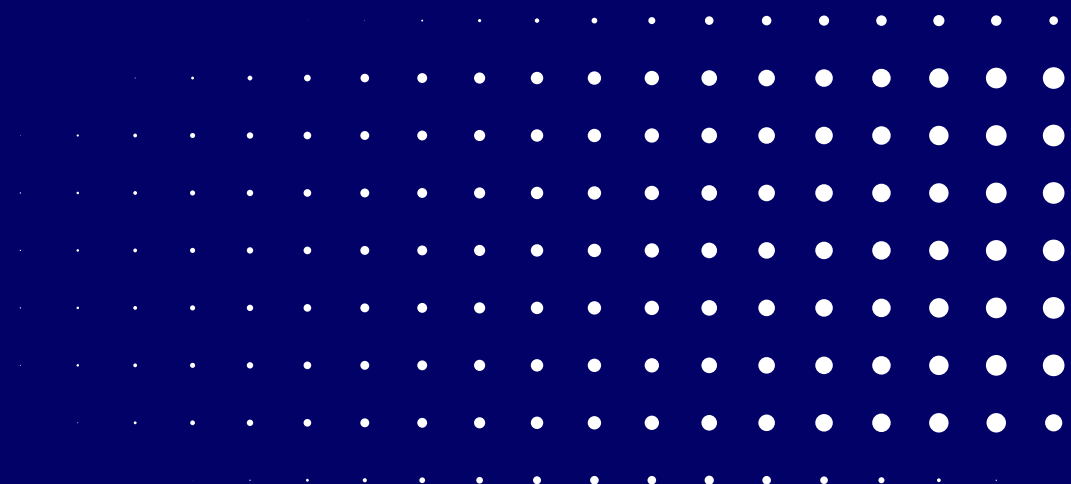
✚ For infringements lasting between one and two years → Increased by one-fifth

✚ For infringements lasting between two and three years → Increased by two-fifths

✚ For infringements lasting between three and four years → Increased by three-fifths


✚ For infringements lasting between four and five years → Increased by four-fifths









✚ For infringements lasting five years or longer → Doubled

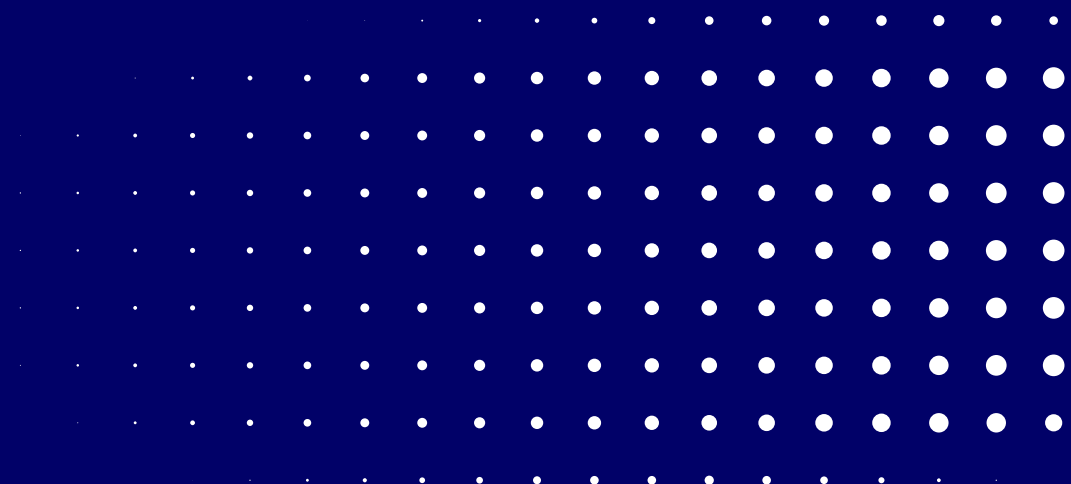




Key Points


 **Single infringement:** The conditions to assess whether there exist single infringement or multiple infringements have been outlined. In this regard, following factors are considered:


-  geographic markets,
-  relevant product markets,
-  input and output markets,
-  the nature of the behaviors,
-  temporal cohesion between the behaviors,
-  whether the behaviors were executed under the same decision, whether they show strategic cohesion,
-  whether the actions were unilateral,
-  significant differences in the nature and essence of the behaviors.

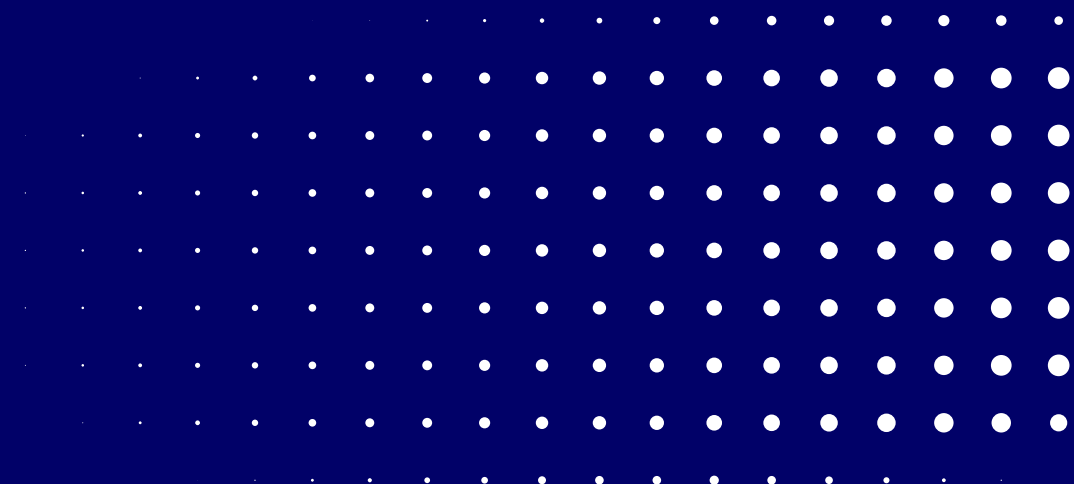




Key Points

 **Foreign Revenue as a Mitigating Factor:** Foreign revenue within the annual gross income may be considered as a mitigating factor. However, if the foreign income strengthens the undertaking's position in the Turkish market and enables the financing of anti-competitive behaviors leading to market closure, it will not be taken into account for a reduction.

 **Penalties Imposed on Employees and/or Managers:** A certain clarity has been provided regarding the conditions under which penalties can be imposed on managers and employees. When a direct causal link can be established between the actions of a manager or employee and the creation or continuation of an infringement, and it is understood that the infringement could not have been carried out or sustained without the involvement of the relevant manager or employee, they may be held accountable.

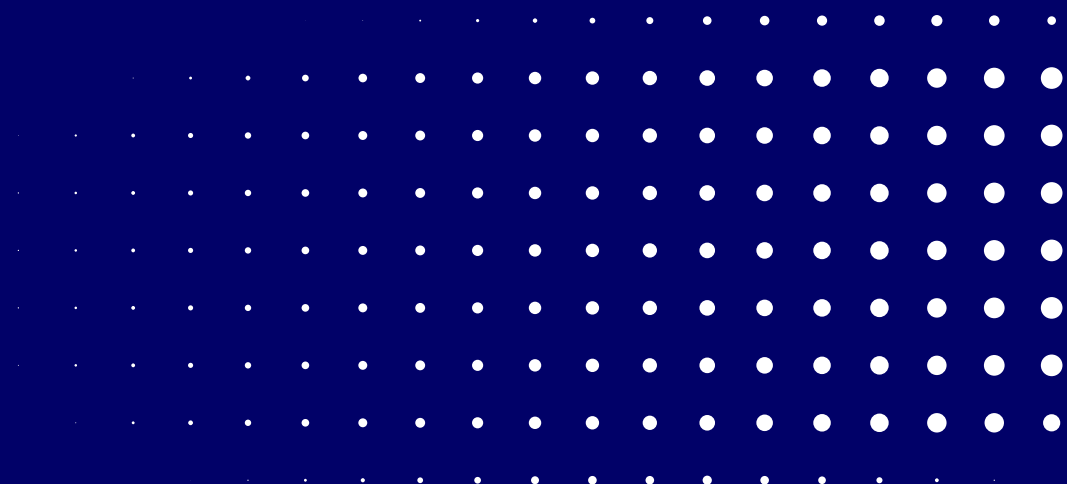




Key Points

Mitigating Factors in the Previous Regulation Will be Considered: Mitigating factors listed in the Fining Regulation are not exhaustive. The following factors previously accepted as mitigating can still serve as grounds for a reduction in fines:

- ✦ encouragement from public authorities in the infringement,
- ✦ the presence of buyer power in the market,
- ✦ the lack of established case law regarding the behavior subject to the administrative fine,
- ✦ the existence of force majeure.



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