

Communiqué

From the Presidency of the Competition Authority:

Communiqué on an Amendment to the Communiqué No. 1997/1 on the Mergers and Acquisitions Calling for the Authorization of the Competition Board, and on the Abolition of the Communiqués No. 1997/2 and 1997/6; Communiqué No. 2006/2

Communiqué No. 2006/2

ARTICLE 1- Article 5 paragraph six of the Communiqué No. 1997/1 on the Mergers and Acquisitions Calling for the Authorization of the Competition Board, published in the Official Gazette dated 12/8/1997 and numbered 23078 has been amended as follows.

“A merger or an acquisition shall not legally become valid until a decision, either explicitly under Article 10 paragraph one of the Act, or tacitly under paragraph two of the same article, is taken on the notification duly made pursuant to Article 5 of this Communiqué. In case the notification is deemed as not having been made, Article 11 of the Act shall be applied.”

The following paragraph seven has been added to follow paragraph six of the same article.

“In case merger or acquisition operations subject to authorization are realized without the authorization of the Competition Board, fine shall be applied in accordance with article 16 paragraph one sub-paragraph (c) of the Act. In case the fine mentioned in this sub-paragraph is applied on associations or associations of undertakings having legal personality, natural persons employed in managerial bodies shall also be fined personally up to ten percent of the fine imposed.”

ARTICLE 2- Article 8 of the Communiqué No. 1997/1 on the Mergers and Acquisitions Calling for the Authorization of the Competition Board has been amended as follows.

“ARTICLE 8- Should the Competition Board concludes, as a result of the examination of a notification made pursuant to this Communiqué, that the operation notified is not a merger or an acquisition, it may consider this notification as an application for negative clearance pursuant to Article 8 of the Act, or as an application for exemption under Article 5 of the Act.”

ARTICLE 3- Article 9 of the Communiqué No. 1997/1 on the Mergers and Acquisitions Calling for the Authorization of the Competition Board has been amended as follows.

“ARTICLE 9- In cases where the decision by the Competition Board made explicitly under Article 10 paragraph one of the Act, or tacitly under paragraph two of the same article that a merger or an acquisition is not contrary to Article 7 of the Act has been taken due to incorrect or misleading information by one of the undertakings, or the obligations attached to the decision have not been fulfilled, the Board may place the merger or acquisition under re-examination, and may decide on prohibition and the application of the other sanctions.”

ARTICLE 4- The Communiqué of the Competition Board No. 1997/2 on the Procedures and Principles for the Notification of Agreements, Concerted Practices, and Decisions by Associations of Undertakings Pursuant to Article 10 of the Act, published in the Official Gazette dated 12/08/1997 and numbered 23078, and its annex Form-1 together with the Communiqué No. 1997/6 on the Rights and Obligations of Undertakings and Associations of Undertakings Arising from the Act No. 4054 after the Conclusion of the Organization of the Competition Authority, published in the Official Gazette dated 11/11/1997 and numbered 23167 have been abolished.

ARTICLE 5- This Communiqué shall enter into force on the date it is published.

ARTICLE 6- The provisions of this Communiqué shall be executed by the President of the Competition Authority.