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**Roundtable on:
The Impact of Cartels on the Poor**

**Contribution
by
Turkey**

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Cartels are generally seen as per se violations of competition law since they have the effect of rising prices and decreasing output, resulting in reduced consumer welfare. Although the whole society is affected from cartels, the low-income part of the society is more vulnerable to negative effects arising from cartels.

Low-income people generally spend most of their income to basic necessities. For this reason, cartels in basic goods and services could be most harmful for low-income people. Especially cartels in food industry are capable of affecting directly the daily life of the poorest of the society. As the income level decreases, the proportion of spending for food in the total consumption increases and cartels increasing food prices directly steal from low-income household's budget.

Detecting and preventing cartels constitutes an important part of competition law enforcement in Turkey. Turkish Competition Authority (TCA) has conducted many investigations on cartels since it's foundation in 1997. A closer examination of these cartels demonstrates the fact that a great deal of them are directly affecting the pocket of consumers, in particular those with low income. Among those, the poultry meat cartel¹ may be given as a recent example of cartel activity directly effecting low-income people.

After some news appeared across the national media asserting the existence of an agreement between undertakings in the poultry meat market aiming to raise the prices and limit the supply, the TCA initiated an investigation about twenty-seven undertakings and the Poultry Meat Producers and Breeders Association. The TCA reached the conclusion that nine undertakings out of the twenty-seven under investigation had participated in a cartel and jointly limited supply and raised prices in the poultry meat market between 2003 and 2008. Although the cartel surcharge or its effect on consumers had not been directly calculated, it would not be wrong to reach the conclusion that the decision in itself was an important one as it ended a long lasting cartel in a market which has a specific importance for low-income people as it is clear that as a result of the increased red meat prices in Turkey, poultry meat became an important protein source for most low-income consumers.

¹ Decision dated 25.11.2009 and numbered 09-57/1393-362.

Bread cartel is another example, which directly affects the low-income society. Until 2013, TCA has conducted about 60 preliminary investigations regarding bread producers in different geographic markets. In four of these investigations, the TCA found that the undertakings investigated had been involved in an agreement to increase bread prices. In most of the cases the TCA found that bread producers had been sharing information on prices and production for a short period but did not find any infringements of competition law. Instead, the TCA opined the undertakings or association of undertakings to end those activities which can facilitate coordination. Since most of the bread producers are local companies with small production scale, usually their awareness about competition law is insufficient. For this reason, the TCA attaches utmost importance to raising awareness and promoting competition culture among these firms. In February 2013, a letter for information and warning purposes the President of the TCA, has been delivered to both bread producers and their associations to promote awareness and compliance with competition law.

Cartels in road transportation industry may have similar effects on the poor as well. Although the industry is regulated by the Ministry of Transportation, Maritime Affairs and Communication, the TCA has completed 39 preliminary inquiries in the last three years. Due to low barriers to entry, the industry is formed on disequilibrium between demand and supply, i.e. excess supply. This structure usually leads to price wars between undertakings in the industry, even to the stage below the minimum price list set by the Ministry². Although these exclusionary price wars are beneficial to the low-income consumers, this strategic game in the industry ends up with the agreement between firms for a higher level ticket price. The significance of this issue is also analyzed in the Competition Report-2012 prepared by the TCA. In the report it was concluded that black economy should be disallowed and new regulations should be made in order to remove the excess capacity.

Not only producer cartels but also buyer cartels have the capacity to have negative impact on the poor. Especially buyer cartels in agriculture sector may be detrimental since farmers usually represent low-income level people and their economic welfare depends on the price of agricultural product they produce. A buyer cartel aiming to

² The aim of the Ministry to set the minimum price is to overcome the black economy in the road transportation industry

artificially decrease the price of a product directly reduces the income of farmers. There are examples of this kind of cartels among the TCA's enforcement. In 2007, after receiving a complaint from a farmer, the TCA started an investigation about 17 undertakings exporting cherry from Turkey to European countries. At the end of the investigation the importers were fined for making an agreement to decrease the price to be paid to cherry producers³. Ten dried fig exporters were also investigated for a similar anticompetitive agreement in 2012. Nine undertaking were found to be involved in a buyer cartel to decrease fig prices and they were fined for this activity against competition law⁴.

Besides detecting cartels, taking measures in order to create a more competitive environment is also important. The TCA takes some advocacy or regulatory measures to open a certain market to more competition. For example, during the privatization process of electricity distribution systems in Turkey, TCA opinions gave way to a more liberal and competitive market structure. The TCA opinion about the privatization process emphasized the issues of unbundling of operations and vertical integration. The opinion stated that transferring distribution and sale of electricity, as a vertically integrated operation would lead to serious concerns about establishment of competition during the liberalization process of the market. While suggesting various alternatives in the form of recommendations and opinions aimed at the elimination of these concerns, the TCA also established legal unbundling as a requirement for privatization. In the ongoing process, with the amendment made to the Electricity Market Law, the issue of legal unbundling has become not only a requirement of the Competition Authority for final authorization of privatization tenders, but a part of the regulation itself.

Competition in public procurement should also be addressed under this topic. Competition law infringements in public procurement may not have direct effects on the poor but the indirect effects could be detrimental. Public procurement accounts for a significant percentage of the state budget. According to OECD data, on average, OECD countries spend 12% of their GDP on public procurement⁵. Anticompetitive behaviors in public procurement steal from state budget and this

³ Decision dated 24.07.2007 and numbered 07-60/713-245.

⁴ Decision dated 16.03.2012 and numbered 12-12/383-112.

⁵ OECD, 2011, Government at a Glance, Size of Public Procurement Market.

results in less infrastructure investments and less subsidy for the poor. Also cartels in public procurement impede SME's entrance to these markets. Necessary enforcement and advocacy actions should be taken in order to promote competition in public procurement to overcome the negative effects on the poor.

Eventually, cartels may have detrimental effects on the poor in many ways. Cartels increase prices of goods and services, decrease prices of the products poor people produce, limit SME's access to markets and steal from state budget. Both competition law enforcement and competition advocacy activities have significant role in increasing competition in the markets. By taking the right measures, Competition Authorities can contribute to increasing welfare of the poor in the society along with to promoting efficiency in economy.