

META FACES TURKISH COMPETITION AUTHORITY INJUNCTION AND FINES OVER DATA SHARING PRACTICES

On 18 March 2024, the Turkish Competition Authority (“**TCA**”) has issued an interim injunction against Meta Platforms, Inc. halting the sharing of data between Instagram and Threads. Additionally, Meta faces an administrative fine of around TRY 4.8 million due to its inadequate response to alleviate anti-competitive concerns.

THREADS AND INSTAGRAM: FINDINGS OF THE BOARD

In December 2023, the Turkish Competition Board (“**Board**”) launched an investigation into Meta Platforms, Inc. (“**Meta**”) regarding the alleged abuse of its dominant position in the social media market. This was a response to Meta’s combining user data from Threads profiles with their Instagram accounts. The Board, concerned about the potential for irreparable damage before the investigation’s conclusion, issued an interim injunction to prevent Meta from merging of data from Threads profiles with Instagram accounts, without offering users the option to consent.

The Board has noted that:

- Meta has amassed a comprehensive and detailed dataset over its many years of operation in the market and the size and diversity of Meta’s user base makes its services attractive to advertisers.
- Meta’s ability to allocate additional resources to service development creates challenges for competitors operating in social networking services and online display advertising markets. This makes it harder for those competitors to access advertisers and secure financial resources, creating barriers to entry in the market.
- Meta operates as an ecosystem with its core services and related services. This makes it possible for Meta to leverage its market power in other markets.

The Board also referred to the *Digital Markets Act* (Regulation (EU) 2022/1925) of the European Union, which prohibits “gatekeepers” from merging personal data across different services without user consent. In line and compliance with the Digital Markets Act’s requirements, the Board noted that Meta introduced Threads in the European Union on 14 December 2023, highlighting that Meta would have complied with the requirements under the *Digital Markets Act* to do so.

Nevertheless, the Board scrutinised Threads’ privacy notice, and raised concerns that the data collected could be used to enhance and personalise other Meta products and services, including advertisements.

- Meta launched Threads in Türkiye in July 2023.
- Meta then introduced an update to Threads, allowing account deletion independent of Instagram profiles.
- The Board observed that Meta had combined data collected from Threads with the data collected from Instagram users.
- The Board cited its prior decision regarding Meta’s combining of data across its core services.
- In compliance with the TCA’s interim measures, Meta announced on 15 April 2024 that it would cease availability of Threads in Türkiye by end of April.

The Board also referred to its previous decision dated 20 October 2022 concerning the abuse of dominance through combining of data from Meta's core services, as well as *Bundeskartellamt's* investigation into Facebook/Oculus, which led to an agreement to hold separate Oculus data from other Meta services.

The Board concluded that Meta's dominant position and the combination of user data could potentially have anti-competitive effects. The Board also expressed concerns related to exclusionary practices and impeding consumer choice as users are required to accept the terms of use and privacy policies to access the Threads application.

In response to the Board's interim measure, Meta announced on 15 April 2024 that it would temporarily suspend offering Threads in Türkiye from 29 April to ensure compliance with the interim measure.

DAILY MONETARY FINE IMPOSED FOR NON-ADEQUATE MEASURES

The TCA also announced on 18 March 2024 concerning the Board's decision of 20 October 2022, which found that Meta had failed to submit necessary measures to address anti-competitive practices associated with WhatsApp and other Meta services.

Meta was required to (i) submit the necessary measures to the TCA within one month following the receipt of the reasoned decision, (ii) implement these measures within six months of the same notification, and (iii) submit annual reports to the TCA for five years following the implementation of the initial compliance measure.

The original deadline for compliance was extended to 9 December 2023, following the approval of Meta's extension request. However, the Board concluded that Meta had not presented adequate measures by 11 December 2023, and as a result, imposed a daily administrative fine of TRY 4,796,152.96 starting from 12 December 2023.

One of the requirements from the Board was that Meta must secure renewed consents from users who had previously agreed to merging of their data across Facebook, Instagram, and WhatsApp. The consent interface must not merely solicit confirmation but must also clearly inform users that they have the option to decline consent while continuing to use the applications.

The Board found the consent interface provided by Meta to be inadequate, as it lacked necessary transparency, sufficient information, and seemed to steer users towards consenting to the data merger. In light of this, the Board has levied a daily administrative fine of TRY 4,796,152 based on Meta's gross revenue for 2022, which will persist until Meta submits a remedial measure acceptable by the TCA.

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