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Competition Law, Regulation and the interchange fee; Turkish Experience

Dr.Oguzkan GUZEL
Guner Law Office
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Turkish Competition Board (TCB) Decisions on Credit Card Interchange Fees

- 2003 Starting of the process via a complaint
- 2005 Credit Card Investigation Decision (1.7.2005 Main Decision)
- 2006 Meet to Conditions Decision
- 2008 Individual Exemption Decision
- 2009 Expected New Decision

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2005 Decision – Competition Law

- Determining interchange fees by BKM A.Ş. is breaching competition law.
- But, this may have individual exemption by meeting some conditions.
- Change the formula within 90 days. TCB looks cost calculation approach.
- Exemption period will be two years, because of some regulatory preparations on credit card law.

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2005 Decision – Competition Policy

- TCB propose amendment in relevant law (consumer protection law) on “no surcharge” rule,
- TCB asks to relevant regulatory authority (Banking Supervision and Regulatory Board) to have regulatory powers on the credit card interchange fees by the legislation of draft Credit Card Act.

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Regulatory Change in Banking and Credit Card System

- New Banking Act on 19.10.2005
- Bankcard and Credit Card Law entered first time in Turkish System. 23.02.2006
- Banking Supervision and Regulatory Board gained regulatory power on the credit card interchange fees.
- But BSRB have not used this power.

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Result of Competition Policy Opinion

- “No surcharge rule” is still on the consumer law,
- “No surcharge rule” is inserted also in new Bankcard and Credit card law.
- BSRA has gained the regulatory power on the interchange fees, but there is no secondary legislation until now.

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2006 Meet to Conditions Decision

- TCB accepted relevant tax as a cost of banks and ruled that addition of the tax on the formula is permissible.

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2008 Credit Card (17.1.2008) and Bankcard (13.03.2008) Individual Exemption Decision

- TCB found “lack of audit” in the relevant data of the interchange fees.
- Who is going to audit these dataset?
- Preferably BSRA
- But, in the absence of it, independent audit from the private sector.

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2009 Expected New Decision

- If banks are going to meet with independent audit and have permissible record, it may be an undefined term individual exemption to interchange fees.
- The more useful way is regulating such area by BSRA and Central Bank.

Conclusion

- Regulation of interchange fees is so important for the economy.
- The question is “who” and “how” to regulate?
- Turkish experience shown that TCB made some effort but other relevant regulatory actors are silent on this issue.