

THE FINE PRINT

Answers. Not theories.

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Our Leadership Team is Growing Stronger: **Yağmur Yollu Promoted to Managing Partner**

We are delighted to announce that one of our senior associates, Yağmur Yollu, who has been an integral part of our firm for many years and made significant contributions to the development of our legal practice, has been promoted to Managing Partner as of June 2025.

Throughout her career at our firm, Yağmur has distinguished herself not only through her deep legal expertise but also through her strong leadership skills, visionary perspective, and the high level of trust she has earned from our clients. We are confident that in her new role, she will continue to shape the strategic growth of our firm and lead us to even greater success.

We wish her the very best in this new role and hope this well-deserved promotion will serve as an inspiration to us all.

Proposed Amendments to the Internet Law Removed from the 10th Judicial Package

The Legislative Proposal on the Execution of Penal and Security Measures and Amendments to Certain Laws (**Proposal**) was recently submitted to the Presidency of the Grand National Assembly of Türkiye. While the Proposal primarily included significant reforms to the penal execution regime, it also aimed to introduce certain amendments to Law No. 5651 on the Regulation of Broadcasts on the Internet and Combating Crimes Committed Through These Broadcasts (**Internet Law**).

As known, Article 9 of the Internet Law, which regulated the protection of personal rights in the online environment, was annulled by the Constitutional Court. The Court granted a one-year period for the enactment of new regulations. Accordingly, it was expected that new provisions would be introduced to address the legislative gap resulting from the annulment. The proposed amendments to the Internet Law included in the Proposal aimed precisely at filling this void.

The Proposal aimed to establish a more systematic and normatively grounded structure for the protection of personal rights in the digital environment under the Internet Law. Among the proposed amendments were the codification of the “prima facie violation” doctrine, which has evolved through the case law of the Constitutional Court; a revision of the definition of “removal of content” to include a new “non-deletion from the server” rule, which could allow the content to re-circulate; and the introduction of a new ground for blocking access to an entire website in cases where the unlawful content is not removed. In addition, the scope and implementation of the notice-and-takedown mechanism were redefined, and it was proposed that if social network providers fail to comply with court orders, bandwidth throttling measures could be explicitly imposed.

However, the Law No. 7550, published in the Official Gazette on 4 June 2025, did not include any provisions regarding the Internet Law, despite the expectations set forth in the Proposal. As a result, the proposed amendments to the Internet Law have been shelved for the time being.

This development clearly prolongs the current legal gap in terms of the protection of personal rights online and the removal of unlawful content. Nevertheless, certain legal remedies remain available. For instance, if the content in question constitutes a criminal offense, it is possible to request access blocking and content removal under Articles 8 and 8/A of the Internet Law. If the violation involves an infringement of privacy, intervention can be sought under Article 9/A. In any case, it is also possible to request a preliminary injunction from the courts to block access pursuant to Article 25 of the Turkish Civil Code. The most appropriate course of action should be assessed and pursued based on the specifics of the case.

We are closely following the developments regarding this legislative process. You may access the Proposal [here](#) and the 10th Judicial Package [here](#) (*Only available in Turkish*).

Critical Principle Decision from the Personal Data Protection Board: Intervention in Approval Processes via SMS Verification Codes

With the Principle Decision dated 10.06.2025 and numbered 2025/1072, the Personal Data Protection Board (**Board**) has scrutinized the practice of sending SMS verification codes to data subjects during product and service delivery processes (e.g., membership registration, payment, offer requests, etc.).

Board stated that in these practices, the obligation to inform (transparency) was not fulfilled, and/or despite the verification code being requested on the grounds of being necessary for completing payment transactions or updating information, the data controller misled data subjects by obtaining their explicit consent for sending commercial electronic messages through this method.

Based on its examination of the issue, the Board made the following findings and assessments:

- There was no clear and understandable prior information provided about the purpose and consequences of the verification codes sent via SMS,
- Explicit consents for commercial electronic message permissions were misleadingly obtained under the pretext of sending the verification code,
- The obligations to obtain explicit consent and to inform were not fulfilled independently of each other,
- The principle requiring explicit consent to be specific, informed, and given by free will was violated.

Accordingly, the Board has outlined the obligations that data controllers must fulfill:

- Layered informing should be applied; data subjects must be clearly informed before sending the verification code and also within the SMS content itself,

- Different data processing activities such as membership registration, payment, offer requests, and consent for commercial communication must be separated, and explicit consent must be obtained separately for each,
- Explicit consent should not be presented as a mandatory condition for receiving products or services. It must be clearly stated that services can be provided even if consent is not given,
- Regular training and awareness-raising activities should be conducted for personnel,
- Explicit consent and informing processes should be separately designed in accordance with the Communiqué on the Procedures and Principles to be Followed in Fulfilling the Obligation to Inform.

Additionally, the Board emphasized in the Principle Decision that all these practices fall within the scope of the technical and administrative measures required to be taken by data controllers under Article 12 of the Personal Data Protection Law (PDPL). The board reminded that failure to comply with these obligations will result in sanctions pursuant to Article 18 of the PDPL.

Furthermore, the Board stressed the necessity of separating commercial electronic message consents from verification code sending processes and that personal data processing activities must be conducted transparently, clearly, and in compliance with the law.

Principle Decision was published in the Official Gazette dated 26 June 2025 and numbered 32938 and was also announced to the public on the Personal Data Protection Authority's website.

You can access the full text of the Principle Decision [here](#) (Only available in Turkish).

The Paradox of Competition, Data, and Privacy in Online Advertising: The Turkish Competition Authority Publishes Its “Final Sector Inquiry Report on Online Advertising”

As online platforms rapidly grow due to their power to influence consumer behavior and their potential to generate economic value, the need for regulation, transparency, and the protection of competition in this area is also increasing at the same pace. In this context, the Turkish Competition Authority has published its Final Sector

Inquiry Report on Online Advertising (**Report**), aiming to examine developments, functioning, and the competitive structure of the online advertising market, as well as anti-competitive behavior and data flows within the digital ecosystem.

Below are the key issues addressed in the Report:

Competition Concerns and Ecosystem Power

The Report details how major players such as Google and Meta have established ecosystem dominance in online advertising through integrated service models.

Report emphasizes that Google, through its search engine and ad tech infrastructure, and Meta, through its dominance in social media and display advertising, have created significant barriers to entry for competitors. Supported by economies of scope and data-driven business models, this dominance restricts competition, narrows choices for advertisers and publishers, and adversely affects the quality of information and access to innovative services for consumers.

Lack of Transparency in the Supply Chain

The Report also highlights the lack of transparency in the ad tech supply chain. Specifically, it points out that platforms like Google Ads create uncertainty by not disclosing their service fees in auction processes.

Personal Data: Another Tool of Competition

Another striking section of the Report is the survey conducted with 1,736 participants. This part offers important findings not only in terms of competition but also from data protection and consumer behavior perspectives:

- **81.7% of respondents do not know how online platforms are funded.** Those who do generally believe they rely on advertising revenues.
- **71.5% are unaware that they share personal data online.**
- **Only 16.1% reported reading privacy policies in full.**
- **70.2% believe the data collected is not used in line with its stated purpose,** primarily due to ads being shown based on previously visited websites.
- **Among those who read privacy policies, only 54.2% stated they understood the content.** The majority of those who do not understand the policies complain about the texts being too long and complex.

- **4 out of 5 participants never change their privacy settings.** Reasons include “no need,” “too complicated,” and “not knowing how.”

The Privacy Paradox: Concern Without Action

One of the most striking insights of the Report is that users express significant concerns about privacy, yet these concerns are not reflected in their digital behavior.

Although users find ads personalized, they feel a sense of intrusion when they learn that their data is being used. Nevertheless, privacy policies go unread, settings remain unchanged, and passive consent to data sharing is common. This phenomenon is known in the literature as the “**privacy paradox**”, and the Report provides a local example of it.

As seen, the Report highlights the need to reconsider the online advertising industry from both a competition law and data protection perspective. The call for policies and practices that enhance transparency, accountability, and user awareness in the digital space is clear.

You can access the full Report [here](#) *(Only available in Turkish)*.

“Pre-Selected Options” Practices Once Again on the Radar of the Advertisement Board

In areas where consumer preferences should be formed freely, options that are “pre-selected” via digital interfaces can steer users toward certain actions without their awareness. Although these choices may appear advantageous on the surface, they often lead to outcomes that are not based on genuine consent, paving the way for unfair commercial practices.

A recent example of this situation was evaluated by the Advertisement Board (**Board**) in relation to one of Türkiye’s leading e-commerce platforms. During its meeting held on 17 April 2025, the Board examined numerous advertisements and commercial practices considered to be misleading and deceptive for consumers. One of the notable decisions of the meeting concerned the platform’s implementation of its “Premium Membership” service.

The specifics of the practice in question are as follows:

It was determined that the e-commerce platform presented the “Premium Membership” checkbox as pre-selected during the payment stage, while offering consumers benefits such as free shipping or discounts. The Board concluded that this approach could

interfere with consumers’ independent decision-making processes and potentially lead them to sign up for a subscription they would not have otherwise agreed to. As a result, the practice was deemed an unfair commercial practice. The Board imposed an administrative fine of TRY 550,059 on the platform and ordered the termination of the said commercial practice.

The Board had previously highlighted similar practices in various reports, characterizing them as unfair commercial practices due to their adverse impact on consumers’ ability to make informed choices and exercise independent decision-making. The Board brought this issue back into focus through its 356th Press Bulletin.

You can access the relevant bulletin containing the Board’s decision [here](#) *(Only available in Turkish)*.

Editors



Görkem Gökçe

gorkem.gokce@gokce.av.tr



Tuğçe Beyazkılınç

tugce.beyazkilinc@gokce.av.tr



Yağmur Yollu

yagmur.yollu@gokce.av.tr

About us

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, debt recovery, real property, and commercial litigation. Please visit our web site at www.gokce.av.tr for further information on our legal staff and expertise.

Please contact us at

info@gokce.av.tr

0 212 352 88 33

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