

The Law Amending the Law on the Regulation of Electronic Commerce has been Published

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The Law Amending the Law on the Regulation of Electronic Commerce numbered 7416 (“**Amendment Law**”) has been published in Official Gazette dated 7 July 2022 and numbered 31889. The Amendment Law aims to prevent unfair competition and monopolization in e-commerce, with the participation of new actors into the market as well as the balanced and healthy growth of the market.

The most notable amendments, introduced by the Amendment Law, are as follows:

- > Definitions of “Electronic Commerce Intermediary Service Provider”, “Electronic Commerce Service Provider”, “Market Place”, “Net Transaction Volume” and “Economic Integrity” have been added.
- > It has been stated that businesses operating in the fields of private pension, banking, insurance, financing, capital market, payment services, betting and chance games, travel agency, civil aviation and electronic communication are not considered as E-Commerce Instrument Service Provider or E-Commerce Service Provider, the scope of which are determined in detail by the Amendment Regulation.
- > The Ministry of Commerce (“**Ministry**”) has been given additional powers to ensure the development of e-commerce, to protect an efficient and fair competition environment, and to regulate the activities of service providers and intermediary service providers.
- > In order to ensure the implementation of the Amendment Law, it is regulated that the procedures and principles regarding conducting audits and explaining the results of the audit, appointing an expert in cases requiring special expertise or technical knowledge during the audit, and assigning the rights and obligations of the expert will be determined by the Ministry in a regulation.
- > Intermediary service providers and service providers are obliged to keep information, documents, ledgers and electronic records of their business and transactions within the scope of the Amendment Law for 10 years from the date of the business or transaction.
- > In addition, the Ministry is authorized to receive the information of real or legal persons who send commercial electronic messages via voice call and short message from the Information and Communication Technologies Authority.
- > Payments to be made from the e-commerce intermediary service providers to the payment service providers with which they are in economic integrity shall be deemed to have been made to the e-commerce intermediary service provider.
- > The bond between the brands that are in the economic integrity of the intermediary service providers and the brands that they have the right to use will be eliminated in the e-commerce marketplaces where it offers intermediary services. The intermediary service provider will not be able to offer these goods for sale or act as an intermediary

in the sale of the goods. If the goods are offered for sale in different e-commerce markets, they will not be able to access to and promote each other.

- › Electronic commerce service providers are allowed to place the information in the documents required to be issued within the scope of Tax Procedure Law numbered 213 in the electronic commerce marketplace where the sale is made.
- › Regarding unlawful content, unless there is a contrary provision in other laws and regulations, the intermediary service provider shall not be liable for unlawful matters regarding the content offered by the service provider and the goods or services subject to the content. However, if the e-commerce intermediary service provider is aware that the content offered by the e-commerce service provider is unlawful, it is obliged to unpublish this content without delay and notify the relevant public institutions and organizations about the unlawful matter.
- › Regarding intellectual and industrial property rights, the e-commerce intermediary service provider is obliged to unpublish the product of the e-commerce service provider, which is the subject of the complaint, and notify the e-commerce service provider and the right owner, upon a complaint based on information and documents regarding intellectual and industrial property rights violations. The product subject to the complaint may be republished upon e-commerce service provider's submission of the information and documents refuting the complaint to the intermediary service provider. With the relevant regulation, the complaint and takedown procedure to be followed in case of violation of intellectual and industrial property rights of the content is regulated.
- › For the obligations of electronic commerce service providers, it has been regulated that the provisions of electronic commerce intermediary service providers will be applied by analogy.
- › Electronic commerce service provider and electronic commerce intermediary service provider, whose net transaction volume in a calendar year is over TRY 10 billion and whose number of transactions excluding cancellations and returns is over 100,000, is obliged to obtain an e-commerce license from the Ministry and renew its license annually in order to continue its activities.
- › A ban will be imposed on unfair commercial practices in e-commerce and applications that (i) significantly impairing electronic commerce service provider's business operations, (ii) impairing its ability to make reasonable decisions, (iii) or forcing it to take a particular decision by causing the electronic commerce service provider to become a party to a commercial relationship that it would not be under normal circumstances. Otherwise, the Ministry will impose an administrative fine.
- › The Amendment Law will enter into force as of 1 January 2023, and the obligations regarding the e-commerce license will come into effect as of 1 January 2025.

You may reach the full text of the Amendment Law from this [link](#). (only available in Turkish)

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