

## Recent Developments About the Commercial Electronic Message Management System ("IYS")

By the amendments made to the Regulation on Commercial Communication and Commercial Electronic Messages ("Regulation") on January 4, 2020, a Commercial Electronic Message Management System ("IYS") was created that allows receiving commercial electronic message approval, the use of the right to refuse, and the management of complaint processes and service providers intending to send commercial electronic messages were obliged to register with the IYS and upload the approvals they receive within the scope of the Regulation, to the IYS until 1 June 2020 ("Deadline for Approval Registration"). The deadline has been changed twice by the Republic of Turkey Ministry of Trade ("Ministry") considering the negative effects of the Covid-19 epidemic on business processes and with the latest Press Release published on 30 November 2020, the Deadline for Approval Registration to the IYS has been postponed;

- Until 31 December 2020 for service providers with over 150 thousand commercial electronic message approvals; and
- Until 31 May 2021 for service providers with 150 thousand and less commercial electronic message approvals.

Approvals that are not uploaded to the IYS within the Deadline for Approval Registration will be deemed invalid.

Who is obliged to register with the IYS?

According to the Regulation, real or legal persons engaged in electronic commerce activities are referred to as service providers, and service providers are required to register with the IYS and upload the approvals they receive within the framework of the Regulation to the IYS.

As the IYS was technically created in a format allowing registration of the resident service providers in Turkey and due to the technical infeasibility of the registration of the foreign service providers, there has been a confusion on whether these service providers are obliged to register with the IYS in case



they send commercial electronic messages to their customers in Turkey. However, with an opinion of the Ministry, it is clarified that real or legal persons, whether or not resident in Turkey, intending to send commercial electronic messages, are obliged to register with the IYS. In this respect, alternative registration processes have been determined for the service providers that are not resident in Turkey but are intending to send commercial electronic messages to the receivers in Turkey.

What is the scope of the registration to the IYS?

According to the Regulation, service providers are obliged to upload the approvals they receive for sending commercial electronic messages to promote their goods and services, market them, promote their business or increase their recognition with content such as celebration and wishes to the IYS.

Pursuant to the Regulation, it is not necessary to obtain prior approval for sending commercial electronic messages to the electronic communication addresses of merchants or craftsmen, but the electronic contact addresses of merchants or craftsmen must also be registered to the IYS before sending commercial electronic messages.

In this context, it should be noted that whether the exception regarding merchants and craftsmen will apply for commercial electronic messages to be sent to corporate e-mail accounts allocated to employees of companies has been a matter of debate for a long time. However, in a recent opinion shared by the Ministry upon a request, the Ministry clarified that it is possible to send commercial electronic messages without approval to corporate e-mail accounts allocated to the employees of the companies with a company name extension, but it is not possible to send commercial electronic messages without approval to the individuals who work within the body of commercial companies but do not have a corporate e-mail address and use e-mail addresses with g-mail, hotmail, yahoo etc. extensions. With this opinion of the Ministry, a long-debated matter has been clarified. Therefore, it is not necessary to obtain approval for commercial electronic messages sent to corporate e-mail addresses of employees in this way, but electronic contact addresses of the relevant persons must also be recorded in the IYS.

