



Workplace and Corporate Law Research Group

Working Paper No. 21

October 2016

CONSUMER PROTECTION IN TURKEY: LAW, INFORMALITY AND THE ROLE OF THE MEDIA

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Consumer Protection in Turkey: Law, Informality and the Role of the Media

Naomi Creutzfeldt, Petra Mahy, Jana Kazaz, Emre Caliskan and Yin Yin Lu*

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INTRODUCTION

This report is part of a University of Oxford John Fell funded collaborative project: *Informality and the Media in Consumer Protection in Emerging Economies*.¹ This pilot project seeks to shed light upon consumer complaint behaviour through social media in emerging economies.

Empirical studies of consumer complaining behaviour, complaint handling mechanisms and enforcement of consumer protection laws have flourished since the idea of consumer protection began to develop in the West in the 1960s and 1970s. Most of the empirical research conducted on these issues, however, has been focussed on the developed world, despite the fact that developing countries have also been creating consumer complaints laws and institutions in recent decades (Meili 2012:193–194). This gap in existing research is particularly surprising given the growing middle classes and large consumer populations in developing/emerging economies.

The West has certainly not had a monopoly on the development of consumer movements, and non-Western movements often developed under very different circumstances and embarked on different campaigns (Hilton 2007:123). Early consumer movements, such as those in China, Korea and India, emerged in the context of nationalism and in many cases pre-dated those in Europe (Hilton 2007:127–128). In other places consumer movements were part of wider civil society protest against the state, as was the case in Thailand (Munger 2014), or originated in state policies to protect domestic products from foreign imports, as in Indonesia (Sumarno 1982).

In 1960, various consumer movements coalesced with the establishment of the International Organization of Consumers Unions (IOCU). The IOCU (which later became Consumers International) led the international campaign for consumer rights which resulted, in 1985, in the issuance of the United Nations Guidelines on Consumer Protection. A 1988 resolution of the UN Economic and Social Council (ECOSOC) urged all member states to adopt the guidelines. The guidelines were expanded in 1999 and revised in 2015. Although some non-Western countries can trace early protections for consumers within much older legal traditions, such as in India (Prasad 2008; Goyal et al. 2013), and many would have had piecemeal legal developments in civil and mercantile law or for safety of particular products, most modern consumer laws around the world have been influenced by these UN principles (Vaughan 1994; Wood 1991).

The broad UN principles were influential, but the specific laws on consumer protection have been diffused around the world in often more indirect ways. Vaughan (1994) explains that US law strongly influenced the Mexican

¹ Petra Mahy, Naomi Creutzfeldt, Nicole Stremmlau and Iginio Gagliardone, Grant number 142/049, <https://www.law.ox.ac.uk/research-and-subject-groups/informality-and-media-consumer-protection-emerging-economies>

Federal Consumer Protection Act of 1975. This Mexican Act was then heavily relied on by the IOCU in formulating its Model Consumer Protection Legislation, and also influenced many of the other consumer protection codes in South America. The IOCU (Consumers International) has also been involved in the formulation of regional model laws, including A Model Law for Consumer Protection in Africa which was launched in 1996. This model was based on the UN guidelines but was also intended to take account of diversity among African states. Western technical assistance programmes broadly falling under the umbrella of 'law and development' have also been a source of the spread of consumer protection laws (Kovacic 1995). In some places, though, laws have been passed as a result of domestic pressures as much as international pressures. The 1994 consumer law of Taiwan is a case in point (Round and Sporer 2003:45).

Europe has also been a source of influence on the spread of consumer protection law. For example, in Turkey, the continuous path to European Union (EU) accession has heavily guided the development of consumer protection laws. The Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy constituted the formal inauguration of consumer protection policy at EU level. The implementation has since progressed throughout EU member states and accession countries. In Turkey, EU law influenced the creation of The Consumer Protection Act of 2013, for example.

Although, as noted, there have been few empirical studies of consumer protection outside the West, studies and commentary which do exist point to widespread problems of weak institutionalisation and effectiveness of consumer protection laws. Khan and Khan (2011) report that there are widely varying levels of consumer legal literacy across Asia and point to a correlation between consumer awareness and economic development. Ekanem (2011) argues that the institutional framework in Nigeria is not meeting consumer needs, particularly due to problems with court enforcement and the onerous burden of proof placed on the consumer. Moog's (2015) study of district level consumer protection fora in India found that these ADR-inspired institutions more often find for the complainant and increase access to justice for the middle class (but not for the marginalised or poor) and they remain severely underused. Munger (2014) reports that in Thailand the administration of responsibilities under the Consumer Protection Act 1979 was slow to develop and inadequate. Thailand's complaint mechanisms are also underutilised and arguably include too much discretion as to whether to allow particular claims (ibid:44). Various studies of Indonesia's regional consumer dispute processing bodies (Azis 2008; Dewi 2009; Putra 2014) all point to widespread institutional weaknesses and problems with inconsistent procedural rules. Similarly, the implementation of the EU consumer protection directives in Turkey has encountered various challenges (Atamer and Micklitz 2009). These range from an unstable political climate to a change in leadership and the need to amend existing laws and to create new ones.

Hence, these studies appear to indicate the difficulties of effectively transplanting laws and institutions into the legal systems of developing or transitional economies. There is a wide literature on the effects of legal

transplants, and we do not propose to engage in these debates here. What we do want to highlight is the potential importance of understanding the workings of informal norms and institutions for the protection of consumers, particularly where the implementation of formal law may be weak. Informality (economic activities operating outside of state regulation) is typically a significant part of social and economic life in all states, but is particularly pronounced in developing economies. Although often overlooked in discussions of the failure of formal law, a whole range of informal norms and institutions can regulate and resolve disputes, either alone or in interaction with the formal legal system. Taking a 'regulation' approach, which acknowledges the existence of plural forms of regulation, is arguably necessary to get a fuller picture of the realities of economic relationships (Parker et al. 2004; Ramsay 2006).

One informal mechanism that consumers have at their disposal is the use of reputational sanctioning to 'name and shame' companies that violate their consumer rights (on reputational sanctioning see generally van Erp 2008; Armour et al. 2011; Charney 1990). This is, of course, a strategy sometimes employed by formal government agencies (Cartwright 2012), but the use of mass media is also available to individual consumers and consumer advocacy groups. Ebitu (2014:126), for example, points to the important role of the press in Nigeria in promoting consumer protection. Mass media can be used simply for 'naming and shaming', but it can also play a role as a mediating device in disputes. For example, Tran (2007) documents the use of newspapers in the mediation of labour disputes in Vietnam. Chu and Chu (1981:74) found that letters to the editor in the 1960s and 1970s in China were an 'institutionalised mechanism for the pursuit and resolution of conflict'. A small number of these letters were complaints about products (1981:76). In Turkey, letters to the editor used to be the main means to bring a complaint into the public sphere. Here, an interaction between the consumer and the business complained about could be followed by the masses. The dawn of social media changed the form and means of citizens' complaints. A new, more immediate dynamic developed.

This project was inspired by the casual observation that newspapers, and particularly letters to the editor, are often used to voice and perhaps resolve consumer complaints in developing/emerging economies. With the use of social media increasing exponentially around the world, along with growing middle classes and consumer populations, this seems an opportune moment to empirically investigate the use of media (both traditional news media and online social media) by individual consumers and regulatory bodies for the reputational sanctioning of companies. The project aims to discover the extent to which media has become an informal mediation and dispute resolution mechanism for consumers in particular countries.

This report is about Turkey. It offers an overview of consumer protection laws, and a summary of what Turkish consumers complain about and how they choose to do this. The aim is to set the scene and context for further in-depth analysis into social media as a tool for consumer complaints. This report is divided into three parts. The first part outlines consumer protection laws in Turkey, the second looks at consumer organizations, NGOs and what consumers complain

about the most. The third part focuses on financial services as a sector receiving a high volume of complaints through various channels. A special methodological focus and preliminary analysis on the use of Twitter to complain is presented

PART ONE – CONSUMER PROTECTION LAW IN TURKEY

Turkey is the 17th largest economy in the world, with a GDP of USD 799.54 billion in 2016 (World Bank 2016). In the last decade, the Turkish economy has recorded strong growth; the GDP of the country more than tripled – reaching almost USD 800 billion in 2014, up from USD 231 billion in 2002 (Turkish Statistical Institute 2002). In addition, the rate of inflation in Turkey fell from 29.7% in 2002 to 6.2% in 2012 (Elections Manifesto 2015:123). The Turkish economy is defined as an ‘emerging market economy’ by the IMF (2016). It is also categorized among MINT economies alongside Mexico, Indonesia and Nigeria. MINT (BBC 2014) countries are regarded as the next emerging big economies after BRIC countries. As of June 2015, Turkey ranked 55th out of 189 countries in the World Bank’s Ease of Doing Business Index (2015). In Transparency International’s 2015 Corruption Perceptions Index, Turkey was rated 66th out of 168 with a score of 42 on a 100-point scale.

Turkey has been a candidate for EU membership since 1999. Accession negotiations between the Union and Turkey started in 2005. However, the EU and Turkey have had a Customs Union agreement since 31 December 1995, which prompted significant changes to Turkish legislation. Since the establishment of the Customs Union, Turkey has harmonized its standards with European and international standards. Accession also contributed to the harmonization process. One of the most significant changes Turkey has experienced as a result of this process has been in its consumer protection law.

1. History of Turkish Consumer Protection Law

The first draft law on consumer protection, ‘Draft Law on Regulation of Activities Related to Commercial Goods and Services for Consumer Protection’, was prepared in 1971 by the Ministry of Trade (Atamer and Micklitz 2008). It was the first legal stipulation of consumer protection in Turkey (Özcan et al. 2015). The draft was submitted to Parliament; however, it was not enacted (Özcan et al. 2012) due to the political chaos caused by the coup by memorandum in 1971.

Article 172 of the Turkish Constitution of 1982, which is still in force today, stipulates that *‘the state shall take measures to protect and inform consumers; shall encourage their initiatives to protect themselves’*. According to Umit Gezder, on the one hand this constitutional provision creates the basis for an application in relation to government protection, and on the other it gives consumers the right to establish consumer organizations (Gezder 2006).

It was only on 23 February 1995 that the Turkish Parliament adopted the Consumer Protection Act No. 4077, which was published in the Official Gazette on

8 March 1995. Act No. 4077 came into force on 8 September 1995. The Act regulated defective goods and services purchased through instalments, campaign sales, door-to-door sales, consumer credit agreements, advertising, warranties, consumer boards and courts. In 2003 the Act was amended to ensure harmonization of Turkish consumer protection legislation with the European Union directives on consumer law.

In 2013 the new Consumer Protection Act No. 6502 was adopted (hereinafter 'CPA'); it was published in the Official Gazette on 28 November 2013 and came into force on 28 May 2014. The CPA was aimed at harmonizing Turkey's standards with European Union norms. The difference between the 1995 Act and the CPA concerns the scope of application. Unlike the 1995 Act, which governed only consumer transactions in the goods and services market, the CPA governs all types of consumer transactions and practices. The CPA also regulates inertia selling and pyramid sales for the first time.

The CPA amended the definition of, and provisions regarding, defective goods within the framework of Article 2 of the European Council Directive 1999/44. It also gives more importance to off-business-premises contracts, distance sale contracts, price labels, introductory and user guides, guarantees and after-sale services (Lachman et al. 2014; Özcan et al. 2012).

2. Consumer Protection Principles under Turkish Law

The CPA defines a *consumer* as '*a natural person or legal entity acting with no commercial or professional purposes*'. Based on this legal definition, all contracts and legal transactions including, but not limited to, work agreements, carriage contracts, brokerage contracts, insurance contracts, simple agency contracts, banking agreements, etc. are considered consumer contracts, and are protected by the CPA.

The fundamental legal principles are comprised in Articles 4–16 of the CPA. Article 4 covers both the substantive content of consumer contracts and their form:

1. Form

Contracts and information required must be in writing; in a comprehensible language; and in a clear, simple and readable format (font at least 12pt). One copy of the contract must be provided to the consumer (on paper or memory data register). If a contract term is unclear or ambiguous, it shall be interpreted in favour of the consumer. The interpretation of an average consumer shall be taken as the basis of interpretation (Article 5 section 4).

2. Any amendments to a contract must be in favour of the customer

Conditions agreed upon in a contract shall not be amended to the disadvantage of the customer during the term of contract.

3. *No additional charges*

The consumer shall not incur any additional charges for performance that should be rightfully expected from the scope of the goods or services presented to them, or which are within the scope of the legal liabilities and expenditures incurred in preparation of the contract.

4. *Personal guarantees*

Personal guarantees of the obligations of the consumer shall be considered simple sureties; personal guarantees given by the goods/service provider to cover any consumer claims shall be considered joint and several (consecutive) sureties, unless otherwise provided by law.

5. *Prohibition of compound interest*

Applying compound interest on consumer transactions, even in a default situation, is prohibited.

6. *Prohibition of unfair terms in contracts (Article 5)*

Pursuant to Article 5 of the CPA, a contract term will be considered unfair if two conditions are met:

- (i) The term is included in the contract without being negotiated with the consumer. This includes pro-forma clauses in standard form contracts whose content cannot be altered by the consumer. The burden of proof lies with the party drafting the contract.
- (ii) Such a term leads to unfairly disproportionate rights and duties of the parties arising from the contract, which is against the *bona fide* principle.

A regulation of the Ministry of Customs and Trade ('Ministry') defines specific terms which are deemed unfair. The terms specified in the regulation shall be considered unfair terms regardless of whether the above conditions are met. Pursuant to the CPA, unfair terms are null and void. However, the contract as a whole will continue to be effective, only the unfair provision(s) becomes null and void.

In order to evaluate whether a contract term is unfair or not, the unfairness shall be determined based on all information from the date of execution of the contract. However, it should be remembered that the freedom of contract principle explicitly states that the balance between the main obligations of the parties, or the balance between the actual price and the contractual price of the relevant good or service, should be disregarded in assessing whether a contract term is unfair or not. As long as the contract is clear and comprehensible, no intervention should be made as to the balance of obligations of the parties and the 'actual price' should not be determined (Article 5 section 7).

7. Defective goods (Articles 8–12)

A defective good is defined as ‘a good that is not in accordance with the contract due to incompliance with the sample or model that the parties agreed on, or non-possession of the characteristics that the good must objectively possess’. Also deemed to be defective are goods:

- (i) which do not have one or more of the characteristics shown on its packaging, its tag, its presentation or instruction book, its Internet portal or in its commercials and publicities;
- (ii) which are not appropriate to the qualifications stated by its seller and to its technical organization;
- (iii) which contain material, legal or economic deficiencies and thus do not meet the intended purpose expected from an equivalent good, or reduce the normal benefits expected by the consumer or destroy them.

Any defects occurring within six months of the date of delivery are deemed to have existed at the date of delivery. The burden of proof that the product is not defective rests with the seller. However, this presumption does not apply if the product is faulty.

Under Article 9 section 2 the seller may avoid liability if he proves:

- (i) that he is not and cannot be expected to be knowledgeable of statements made through publications which he did not produce;
- (ii) that the content of the statement was corrected at the moment of the conclusion of the contract; or
- (iii) that the decision to conclude the sale contract does not have any causal link with statements made through publications.

If the consumer is aware or is expected to be aware of any defects at the conclusion of the contract, the consumer is deemed to have accepted the good as it is and there is no contractual default. The residual rights of the consumer are reserved for other unknown defects.

The consumer has four optional rights once it is established that the good is defective:

- (i) to terminate the contract by stating that he is ready to return the sold good;
- (ii) to request a discount on the sale price proportional to the defect and keep the sold good;
- (iii) to request that the sold good is repaired at the seller’s expense by evidencing all repair costs to the seller, if such costs are not excessive; or
- (iv) if possible, to request that the sold good be exchanged with a non-defective good.

The seller is obliged to perform the request as per the consumer's preference (Article 11).

Unless a longer term is determined by law or in the contract between the parties, the period of limitation for the liability for defects, even if the defect appears later, is two years from delivery of the good to the consumer. For residential and holiday properties, this term is five years as of the delivery of relevant residential or holiday property(ies). The seller's liability for defective second-hand goods is a minimum of one year; it is three years for residential and holiday properties (Article 12).

8. Defective services (Articles 13–16)

A defective service is defined as 'the provision of a service that is not in accordance with the contract due to incompliance with the inception of the service, or non-possession of the characteristics the parties agreed that the service must objectively possess' (Article 13).

The consumer has four optional rights where it is established that the service has defects:

- (i) to request re-performance of the service;
- (ii) to request the performed work to be repaired free of charge;
- (iii) to request a discount in proportion to the defect; or
- (iv) to terminate the contract.

Unless a longer term is determined by law or in the contract between the parties, the limitation of liability period for defective service, even if the defect appears later, is two years as of the date of execution of the service; except where the defect is hidden through gross negligence or fraud.

The supplier shall execute the service in accordance with the contract; the responsibility for execution is with the supplier. Under Article 14 the supplier is not bound by the content of a statement if he proves:

- (i) that he is not and cannot be expected to be knowledgeable of statements made through publications which he did not produce;
- (ii) that the content of the statement was corrected at the moment of the conclusion of the contract; or
- (iii) that the decision to conclude the contract does not have any causal link with statements made through publications.

The right to free repair and the right of re-performance of the service cannot be demanded if it would create unbalanced difficulties for the supplier. In order to balance the difficulties in this situation, the value of the service without any defect, the importance of the defect and whether exercise of other rights of the consumer would be problematic are taken into account.

A list of related and subordinate legislation is set out below.

Related legislation

- No. 6563 Electronic Commerce Law (Elektronik Ticaretin Düzenlenmesi Hk. Kanun) (adopted 23 October 2014)
- No. 5411 Banking Law (bankacılık Kanunu) (Article 80)

Subordinate legislation issued by the Ministry of Customs and Trade

- 13 June 2014 – Regulation on Warranties (Garanti Belgesi Yönetmeliği)
- 13 June 2014 – Regulation on After-Sale Services (Satış Sonrası Hizmetler Yönetmeliği)
- 13 June 2014 – Regulation on Users' Manual (Tanıtma Ve Kullanma Kilavuzu Yönetmeliği)
- 17 June 2014 – Regulation on Unfair Terms in Consumer Contracts (Tüketici Sözleşmelerindeki Haksız Şartlar Hakkında Yönetmelik)
- 18 June 2014 – Regulation on Agencies Organizing Promotion (Sürelili Yayın Kuruluşlarınca Düzenlenen Promosyon Uygulamalarına İlişkin Yönetmelik)
- 27 June 2014 – Regulation on Consumer Compensation (Tüketici Ödülleri Yönetmeliği)
- 28 June 2014 – Regulation on Prices (Fiyat Etiketleri Yönetmeliği)
- 5 July 2014 – Consumer Council Regulation (Tüketici Konseyi Yönetmeliği)
- 27 November 2014 – Regulation on Consumer Arbitral Commissions (Tüketici Hakem Heyetleri Yönetmeliği)
- 27 November 2014 – Regulation on Consumer Arbitral Commission Rapporteur (Tüketici Hakem Heyeti Raportörlüğü Yönetmeliği)
- 27 November 2014 – Regulation on Pre-Paid Housing Sales (Ön Ödemeli Konut Satışları Hakkında Yönetmelik)
- 27 November 2014 – Regulation on Distance Contracts (Mesafeli Sözleşmeler Yönetmeliği)
- 24 December 2014 – Regulation on Advertising Councils (Reklam Konseyi Yönetmeliği)
- 10 January 2015 – Regulation on Commercial Advertising and Unfair Trade Practices (Ticari Reklam Ve Haksız Ticari Uygulamalar Yönetmeliği)
- 14 January 2015 – Regulation on Short and Long Travel Contracts (Devre Tatil Ve Uzun Süreli Tatil Hizmeti Sözleşmeleri Yönetmeliği)
- 14 January 2015 – Regulation on Outside-of-Work Contracts (İş Yeri Dışında Kurulan Sözleşmeler Yönetmeliği)
- 14 January 2015 – Regulation on Package Tours (Paket Tur Sözleşmeleri Yönetmeliği)
- 14 January 2015 – Regulation on Instalment Sales Contracts (Taksitle Satış Sözleşmeleri Hakkında Yönetmelik)
- 24 January 2015 – Regulation on Subscription Agreements (Abonelik Sözleşmeleri Yönetmeliği)

- 3 October 2014 – Regulation on Financial Consumer Prices (Finansal Tüketicilerden Alınacak Ücretlere İlişkin Usûl Ve Esaslar Hakkında Yönetmelik)
- 31 January 2015 – Regulation on Distance Financial Services Contracts (Finansal Hizmetlere İlişkin Mesafeli Sözleşmeler Yönetmeliği)

3. Consumer Class Actions in Turkey

Pathways to seek redress simultaneously for a number of similar consumer complaints are termed collective actions, collective redress or mass claims (used interchangeably). With this type of lawsuit one party to the lawsuit represents all of the group members collectively. There are different laws, practices and concepts of this approach throughout Europe.

The European Commission has recently provided a definition of collective redress (C(2013) 3539/3):

Collective redress is a procedural mechanism that allows, for reasons of procedural economy and/or efficiency of enforcement, many similar legal claims to be bundled into a single court action. Collective redress facilitates access to justice in particular in cases where the individual damage is so low that potential claimants would not think it worth pursuing an individual claim. It also strengthens the negotiating power of potential claimants and contributes to the efficient administration of justice, by avoiding numerous proceedings concerning claims resulting from the same infringement of law.

Turkish law does not allow for class actions. However, litigation similar to a class action, now termed ‘collective action’, is available under the Code of Civil Procedure No. 6100 for legal entities (which came into force on 1 October 2011):

Associations and other legal entities may, within the framework of their statute and on their behalf, initiate a collective action in order to protect the interests of its members or of its associates or of the groups they represent, to determine the rights of the related parties or to remedy the unlawful situation or to prevent the future violation of their rights. (Article 113 of the Code of Civil Procedure)

Thus, unlike typical class actions, these collective actions may not be in respect of pecuniary damages, nor may they be pursued by an individual seeking to claim on behalf of like plaintiffs. Associations and other legal entities can initiate a suit on behalf of their members only, and only within the scope of activities indicated in their constitution. If the petition is outside the scope of their activities, it will be rejected by the court on procedural grounds.

Pursuant to Turkish law, it is possible to voluntarily bundle individual claims. However, in such cases, the claims of the different claimants will still continue to exist as individual claims; it does not constitute a class action. If these individual claims are bundled, they can be litigated together. Besides voluntary bundling of individual cases, the Turkish Code of Civil Procedure sets out

mandatory bundling of individual claims in cases when a specific right arising from substantive law is exercised by more than one claimant (Articles 57–59 of the Code of Civil Procedure).

In line with this general legislation, Article 73 of the CPA states that the Ministry or consumer associations may file a lawsuit in consumer courts in respect of general consumer concerns (not individual problems) in order to eradicate an illegal situation.

Part One of this report has provided a snapshot of Turkish consumer protection law. One driver of change in consumer protection laws in Turkey is the effort to harmonize towards EU law. This, of course, will take time to manifest itself as everyday actions. There needs to be an increased awareness of consumer rights and signposting towards redress mechanisms if things go wrong. Part Two of the report introduces the relevant consumer organizations and government institutions in Turkey that are working to achieve such objectives.

PART TWO – TURKISH CONSUMER ORGANIZATIONS, NGOS AND GENERAL COMPLAINTS

Part Two introduces consumer organizations, NGOs and arbitral commissions that settle disputes in Turkey and then provides an overview of the goods and services that Turkish consumers complain about the most.

4. Turkish Consumer Organizations and NGOs

The Turkish Interior Ministry Department of Associations (T.C. İçişleri Bakanlığı Dernekler Dairesi Başkanlığı) was established within the scope of governorates and district governorates in provinces and districts respectively, in order to carry out work and transactions related to associations. This occurred under the amendment of the third Article 771 on 3 August 2002² (under a bill that amended several acts, and included amendments to civil rights), implemented within the EU harmonization acquis (Capeta 2010), and Article 46 of Associations Law No. 2908 (i.e. EU process package).

The website of the Interior Ministry states that Turkey has 108,616 active NGOs and that 160,870 have been abolished.³ Many NGOs were found to not meet the relevant regulations and requirements, such as holding annual general meetings. According to the Interior Ministry, as of 2016, Turkey has 1,669 (1.54% of overall) active NGOs working on rights and advocacy.⁴

² <http://www.resmigazete.gov.tr/eskiler/2002/08/20020809.htm>

³ <http://www.dernekler.gov.tr/en/home-links/Association-Numbers.aspx>

⁴ <http://www.dernekler.gov.tr/en/home-links/Distribution-Associations-According.aspx>

According to the Ministry of Customs and Trade, DG for Consumer Protection and Market Surveillance, as of 2016, Turkey has 75 consumer protection associations, two federations and two endowments.⁵

Tüketici Derneği (TD) – Consumer Association

The Tüketici Derneği (TD) consumer association⁶ was established in 1995 in Bakirkoy, Istanbul, as an NGO consisting of volunteers. The aim of the Association is to inform and educate consumers about their rights and help them to seek justice. From among the various existing NGOs with an interest in consumer protection in Turkey, TD appears to be the most active for a number of reasons:

- It includes up-to-date legislation, including regulations, on its website. This is not the case for other NGOs and government bodies, including the Ministry of Trade.
- It regularly publishes online articles, decisions of administrative bodies and court decisions.
- It is active on Facebook and Twitter.
- It actively participates in television and radio programmes.

Tüketiciler Birliği (TB) – Consumer Union

The Consumer Union was established in 1997. TB's central office is in Istanbul with eight branches in other Turkish cities. The latest entries on their website are from 2012, with the exception of new legislation, which has been uploaded onto their website.⁷

Details of the largest and most represented and active consumer NGOs in Turkey are set out below:

Tüketici Örgütleri Federasyonu (TOF) – Federation of Consumer Organizations

Chairman: Fuat Engin from TUBİDER
Email: tof@tofed.org; federasyon.tof@gmail.com
Website: www.tofed.org
Twitter: TuketiciBilinci

TOF is an umbrella organization of NGOs focussed on consumer protection. It was established in 2008. According to their website, seven NGOs are members of the federation: Tüketici Bilincini Geliştirme Derneği (TUBİDER) – Association for the Development of Consumer Awareness; Tüketiciyi Koruma ve Dayanışma Birliği Derneği (TÜKO-BİR) – Consumer Protection and Solidarity Association; Kayseri Tüketici Derneği – Kayseri Customer Associations; Toplumsal Kültür-Gelişim ve Tüketici Hakları Derneği (TOGEL) – Public Culture-Development and Consumer Rights

⁵ The list is available at:

http://www.tuketici.gov.tr/index.snet?wapp=dernekler_tr&open=5&cat=derneklerDER

⁶ <http://tuketicilerdernegi.org.tr> Twitter: tuketicilerder; Facebook: tuketicilerdernegi

⁷ <http://tuketiciler.org/hakkimizda/>

Association; Tüketici Hukuku Derneği – Consumer Law Association; Tüketiciler Derneği (TÜDER) – Consumer Association; Tüketicinin ve Rekabetin Korunma Derneği (TÜRDER) – Association for Consumer Protection and Competition

Tüketici Bilincini Geliştirme Derneği (TUBİDER) – Association for the Development of Consumer Awareness

Chairman: Engin Fuat
Email: info@tubider.com
Website: www.tubider.com
Twitter: TuketiciBilinci
Tel: +90 216 449 2626 | +90 216 449 29 29

Tüketiciyi Koruma ve Dayanışma Birliği Derneği (TÜKO-BİR) – Consumer Protection and Solidarity Association

Chairman: Prof. Dr. Hamil Nazik
Email: hnazik1@gmail.com
Website: www.tuko-bir.org.tr

TUKO was founded in 1995, and was most active in 2000–2003. Their website currently still contains out-of-date legislation.

Tüketici Hukuku Enstitüsü – Consumer Law Institute

Chairman: Hakan Tokbaş
Email: enstitu@tuketicihukuku.org
Website: www.tuketicihukuku.org

The organization aims to expand and develop consumer protection law. Their vision is to bring Turkish consumer legislation in line with international standards. The institution publishes books on consumer rights. They also organize an annual academic consumer law congress.

Tüketicinin ve Rekabetin Korunmasi Derneği (TÜRDER) – Association for Consumer Protection and Competition

Website: www.basintoplantilari.blogspot.com.tr/2013/03/turder-tuketicinin-ve-rekabetin.html

There is no current news about this organization on the Internet. The latest story about the organization on their website (technically a blog) was published in March 2013.

Tüketici Dernekleri Federasyonu (TÜDEF) – Federation of Consumer Associations

Website: www.tudef.org.tr

Established in 2003, TÜDEF is an umbrella organization of NGOs focussed on consumer protection. According to their website, the federation is Turkey's biggest consumer organization. TÜDEF has over 50,000 members and 102 offices across the country. Six consumer associations are members

of the federation: Tüketiciyi Koruma Derneği (Tükoder) – Consumer Protection Association; Tüketici Hakları Derneği (THD) – Consumer Rights Association; Eskişehir Tüketiciyi Koruma ve Dayanışma Birliği Derneği – Eskişehir Consumer Protection and Solidarity Association; Bursa Tüketiciler Derneği – Bursa Consumer Association; Adana Tüketiciler Derneği – Adana Consumer Association; and Burdur Hasta ve Tüketicileri Koruma Derneği – Burdur Association for the Protection of Patients and Consumers.

Tüketiciler Derneği (TÜDER) – Consumer Association

Email: tuder@tuketicilerdernegi.org.tr

Website: <http://tuketicilerdernegi.org.tr>

They have a good website but there is no information on the site about the history of the organization. They share news about court decisions regarding consumer rights. They also provide advice in this regard.

Tüketici Hakları Merkezi – Consumer Rights Centre

Chairman: Fatih Dinler

Website: <http://www.tuketicimerkezi.org/v2/>

There is no information about the history of the organization. According to their website, they provide free legal assistance for consumers.

Tüm Tüketicileri Koruma Derneği – Consumer Protection Association

Chairman: Mehmet Barak

Website: <http://www.ttkd.org.tr>

TTKD was founded in 1986. According to their website, the organization was one of those that forged public opinion for adaptation of the Consumer Protection Act No. 4077. From their website, it appears that they work on a no win no fee basis. In their own words: ‘Do not be cheated by other consumer associations. Consumer protection requires knowledge, experience, honesty and respect’.

Tüketiciyi Koruma Derneği (TükoDer) – Consumer Protection Association

Chairman: Haşmet Atahan

Website: <http://www.tukoder.org.tr/>

The Association was founded in 1990. According to their website, TükoDer has 41 branches across different cities.

Tüketici Hakları Derneği (THD) – Consumer Rights Association

Chairman: Turhan Çakar

Website: <http://www.tuketicihaklari.org.tr>

The Association was founded in 1991. According to their website, the organization has 38 branches and over 10,000 members. THD is a member of Consumers International.

5. Arbitral Commissions for Consumers

The Consumer Protection Act provides legal institutions for the resolution of consumer disputes in the form of the Arbitral Commission for Consumers (district and regional commissions)⁸ and the consumer courts.⁹ Arbitration committees were established in 81 provinces and 893 districts of Turkey. According to the 2009 report, 143,810 consumers submitted a complaint to the arbitration committees in 2009 (see Table 1 below).

Pursuant to the Regulation on Consumer Arbitral Commissions, complaints are submitted in writing. Consumers may either use the form set out in the Regulation, or simply provide their name, ID number, address and information about the complaint. The complaint may be submitted electronically, through the state electronic portal (*e-devlet*), which includes an electronic signature function.¹⁰

The District Arbitral Commission convenes twice a month and each time a chairman calls the meeting. At least three members including the chairman must be present, and decisions are taken by a majority vote of those attending. In order to make a decision commissions may consult experts. The decision making of the District Arbitral Commission may last up to six months, with the possibility of an extension for another six months.

Consumers may apply to the District Arbitral Commission for matters involving a value of up to 2,000 Turkish Lira, and to the Provincial Arbitral Commission for matters of up to 3,000 Turkish Lira (Article 6 of the Regulation on Consumer Arbitral Commissions (Tüketici Hakem Heyetleri Yönetmeliği)). No application to the Arbitral Commission for Consumers shall be made for disputes exceeding the aforementioned amounts (section 68 (1) of the CPA). Larger claims are typically taken to court. The Commission's decisions are binding on both parties, and appeals may be submitted to the consumer courts within ten working days of notification of the decision.

The decisions of the Arbitral Commission for Consumers are made in accordance with the provisions of the Enforcement and Bankruptcy Law related to the execution of a writ. The parties can appeal the decision to the consumer court located at the Arbitral Commission for Consumers within fifteen days of the date of notification. The appeal does not suspend the execution of the decision of the Commission. Parties may request a temporary injunction. The decision of the consumer court on an appeal against a decision of the Arbitral Commission for Consumers is final. Applications to consumer courts are exempt from court fees.

⁸ The Arbitral Commission for Consumers maintains offices at provincial directorates of commerce and district governors' offices.

⁹ There are consumer courts in Ankara, İstanbul, İzmir, Adana, Antalya, Bursa, Samsun, Konya, Mersin and Kayseri provinces. Complaints outside those provinces should be filed at civil courts, which can function as consumer courts, in the first instance.

¹⁰ <http://www.deris.com.tr/consumer-rights-in-turkey.aspx>

6. Where Do Consumers Complain, and What Do They Complain About?



Source: May May Lai, 26 May 2015, the Grand Bazaar Area, Istanbul, Turkey

It is not a straightforward task to gain an understanding of all the issues consumers complain about in Turkey. There are many avenues consumers can pursue in an effort to complain about goods and services. The following discusses general websites, sector-specific websites and newspapers. These provide some indication of the types of consumer complaints in Turkey.

The Ministry of Customs and Trade¹¹ established a website to serve as a portal for consumer complaints (www.tuketici.gov.tr). The website contains yearly reports from 2001 up to 2009.

According to the 2009 report, consumers submitted 41,950 complaints to the Ministry's main and local offices. Of these applications, 24,791 were assessed; in 84% (21,048) of cases the committees ruled in favour of consumers. The report states further that 57,932 consumers submitted complaints through the existing 175 customer helplines.

In 1995, in addition to the Consumer Council, the Board of Advertisement (Reklam Kurulu)¹² was established under the law on consumer protection. The Board is responsible for setting advertisement principles and monitoring advertisements. According to the report, 2,110 complaints were submitted to the Board of Advertisement, of which 866 applications were assessed and 801 were found to have contravened section 16 of the Protection of Consumers Act No. 4077. In 2009, the total fines imposed by the Board of Advertisement were valued at 18,813,746 Turkish Lira.

¹¹ http://www.tuketici.gov.tr/?wapp=main_en

¹² Following the CPA, the regulations were updated and passed by Parliament on 3 July 2014. For a record of the official Parliament decision, please see: <http://www.resmigazete.gov.tr/eskiler/2014/07/20140703-4.htm>

The Consumer Council convened for the thirteenth time on 27 April 2009 with an attendance of 54 delegates. Their report lists the delegates and their affiliations. It also provides some statistics about the consumer complaints made to the Board of Advertisement (Ministry of Customs and Trade 2009).

Table 1. The number of complaints submitted to Consumer Councils between 1995 and 2009

Year	Number of complaints submitted
1995	1,117
1996	5,012
1997	21,695
1998	33,798
1999	23,437
2000	469,924 ¹³
2001	29,845
2002	33,375
2003	31,582
2004	38,476
2005	47,910
2006	68,855
2007	82,873
2008	105,070
2009	143,810

The figures (in general) show a steady increase in complaints. There could be several reasons for this, but it definitely indicates a greater awareness of consumer dispute resolution processes. A more in-depth study of the underlying reasons for the steady increase could be part of a larger follow-on study.

¹³ The high figures might be related to the financial crisis or post-earthquake period.

Table 2. The number of complaints submitted to Consumer Councils in 2009 based on subject

By subject					
	Defective goods and services	Instalment selling, doorstep sale	Promotion (free gift or special offer)	Touristic	Total
District	33,829	3,633	10	185	37,657
Country	95,164	10,469	344	176	106,153
Total	128,993	14,102	354	361	143,810

Table 3. The number of complaints submitted to Consumer Councils in 2009 based on issue

By issue					
	In favour of consumer	Against consumer	Complaints inspected by expert	Complaints transferred to another institution	Total
District	24,877	5,265	3,928	3,587	37,657
Country	79,697	15,211	10,220	1,025	106,153
Total	104,574	20,476	14,148	4,612	143,810

Informal Online Complaints Handling: The Main Web Portal for General Complaints is 'Sikayet Var' (I have a complaint)

Sikayet Var is a private company. It provides data for companies and facilitates their communication with consumers (similar to a private ombudsman). *Sikayet Var* is on Facebook (136K followers) and Twitter (29.4K followers), and has a smartphone application and a YouTube channel. Consumers are most likely to be attracted to informal methods of resolving their disputes at a time when formal methods are not working for them. Turkey is about to reform its judicial system, as it is known to be very slow and carries a high workload.¹⁴ AKP officials say the reforms will speed up a judicial system swamped by as many as two million cases, some waiting years to be heard (Pamuk 2016).

Consumers can submit complaints through an accessible and clearly structured website.¹⁵ The website is organized according to topic and sector. It was founded in 2001, and the goal was to create pressure on brands to solve consumer complaints with the aim to 'win them back'. The website welcomes

¹⁴ No recent figures are available, but figures from last year show the judiciary had a heavy workload. In 2013 there were 1.4 million cases in addition to more than 500,000 unresolved cases from the previous year (according to statistics released by the Presidency of the Supreme Court of Appeals).

¹⁵ <https://www.sikayetvar.com/>; <https://www.sikayetvar.com/sikayetler/>

individual as well as corporate members.

Procedural steps

1. The identity of the complainant is verified by SMS.
2. The content has to be related to a good or a service.
3. The complaint must relate to a violation of consumer rights under commercial, competition or IP law.
4. Once the identity of the complainant and the content of their complaint have been checked, it is sent to the company being complained about through an automatic notification, and posted on the website.
5. The website records whether the complaint has been responded to by the company, and publishes any feedback from the consumer.

To its corporate members (currently exceeding 1,300) the website offers a complaint analysis service. It includes the number of complaints, main topics and feedback on responsiveness. Members receive an automatic notification for each new complaint. The website offers a platform to communicate with the complainant. Non-member companies are informed about all complaints as well.

The areas consumers can complain about are well-structured within categories and subcategories. An interesting feature is that the logo of the company complained about shows up as part of the complaint. This is aimed at exerting additional pressure on the company ('naming and shaming').

Table 4. Complaints data for 33 categories

Category	2013	2014	2015 (up to 9 June)
1. Internet (İnternet)	114,023	142,091	92,305
2. Finance (Finans)	96,663	120,106	65,265
3. Contact (İletişim)	66,767	77,662	44,466
4. Shipping and Transport (Kargo & Nakliyat)	31,510	43,219	33,812
5. Shopping (Alışveriş)	30,082	41,080	26,227
6. Clothing (Giyim)	25,900	35,119	25,195
7. Cellphones (Cep Telefon Kategorisi)	21,699	34,524	20,447
8. Transportation (Ulaşım)	14,091	21,662	16,140
9. Media (Medya)	20,920	26,002	15,289
10. Public Services (Kamu Hizmetleri)	18,815	19,568	15,188
11. White Goods (Beyaz Eşya)	16,159	20,444	13,444
12. Entertainment (Mekan ve Eğlence)	8,940	13,230	9,870
13. Furniture and House Textiles (Mobilya-Ev Tekstili)	11,563	14,672	9,770
14. Automotive (Otomotiv)	11,701	13,816	9,743
15. Computers (Bilgisayar)	11,354	15,280	7,734
16. Electronics (Elektronik)	7,610	11,458	7,451
17. Insurance (Sigortacılık)	8,847	11,509	7,047
18. Health (Sağlık)	5,421	6,019	4,732
19. Tourism (Turizm)	6,280	6,326	4,722
20. Kitchen Appliances (Mutfak Araç Gereç)	4,704	6,511	4,247
21. Personal Care and Cosmetics (Kişisel Bakım ve Kozmetik)	3,777	5,221	3,750
22. Food (Gıda)	3,688	4,614	3,131
23. Property and Construction (Emlak ve İnşaat)	3,073	4,008	3,018
24. Education (Eğitim)	3,808	5,312	2,869
25. Drink (İçecek)	2,330	3,085	2,187
26. Jewellery, Watches, Glasses (Mücevher-Saat-Gözlük)	2,454	3,524	2,005
27. Small Household Appliances (Küçük Ev Aletleri)	2,899	3,552	1,996
28. Mother-Child (Anne-Bebek)	1,744	2,179	1,492
29. Cleaning (Temizlik)	1,643	2,248	1,250
30. Sport (Spor)	1,138	1,515	1,133
31. Other Categories (Diğer Kategoriler)	807	1,215	713
32. Activities and Organizations (Etkinlik ve Organizasyon)	637	1,255	696
33. Camera and Photo (Kamera ve Fotoğraf)	474	523	238

Under the category ‘shopping malls’ names of specific malls in Turkey are listed. Table 5 shows how the shopping category is further divided into various subcategories. Some further examples follow.

Table 5. Shopping

Subcategory of ‘shopping’	Number of complaints in 2014
Technology stores	24,082
National grocery chains	5,416
Department stores	4,932
Hardware stores	2,443
Advertisement agencies	2,076
Local grocery chains	732
Supermarkets	498
Shopping malls	457
Office suppliers	170
Pet shops	158
Flower shops	15

Table 6. Cellphones

Subcategories of ‘cellphones’	Number of complaints in 2014
Cellphones	23,632
Authorized services	9,206
Private services and sellers	1,715

From the subcategory ‘cellphones’, the following brands had more than 1,000 complaints: Sony Mobile – 1,585; Samsung Mobile – 8,800; Nokia – 1,161; LG Mobile – 1,341; iPhone – 1,025; General Mobile – 2,071.

Table 7. Finance

Subcategories of ‘Finance’	Number of complaints in 2014
Banking	118,444
Financial services	1,793

From the subcategory ‘Banking’, the following banks had more than 1,000 complaints: Akbank – 11,161; Bank Asya – 1,104; Deniz Bank – 4,867; Finans Bank – 7,990; Garanti Bankası – 20,880; HalkBank – 2,921; HSBC – 2,040; ING – 3,736; İş Bankası – 7,930; TEB – 3,797; Vakif Bank – 4,155; Yapi Kredi Bankası – 9,583; Ziraat Bankası – 7,977.

Table 8. Internet

Subcategories of 'Internet'	Number of complaints in 2014
Internet providers	54,799
E-commerce	51,841
Websites listings things for sale	14,259
Florist websites	3,783
Books	2,946
Ticket websites	2,153
Games	1,979
Promotions websites	1,862
Trips and holidays	1,733
Betting websites	1,442
Hosting/domains	888
Dating websites	824
Social media	751
Food websites	711
Health-related websites	673
Email portals	512
Educational websites	292
Blogging fora	246
Survey/research websites	158
Advertisement portals	151
Career/job search websites	131
News	97
Official institutions	16

Sikayet Var publishes a Complaints Index Report (Şikayetendex Raporu) every year. According to the Şikayetendex Raporu (2014) report, the most complained about institutions are Internet companies. The report measures the satisfaction levels of customers through their complaints on the website. According to the 2013 report, among the banks, ING was declared the brand that received the most satisfaction from its customers with 63.5 points. It was followed by İşbankası with 61.7 points and Akbank with 55 points.

According to the report, complaints related to cards, accounts, commissions and fees fell from 60% in 2012 to 36.5% in 2013. With a rating of 58.2 points from customers, Ziraat Bankası was declared the brand among public banks that had very satisfied customers. Vakıfbank followed with a rating of 52.8 points, and Halkbankası received 52.4 points. A more detailed analysis of complaints in relation to banks can be found below in Part Three.

According to the report, 62,000 complaints were made about supermarkets. The most successful supermarket chains are:

1. CareefourSa – 58.1 points
2. Migros – 57.2 points
3. Metro Grossmarket – 43.4 points

In the expensive automobile sector, 401 complaints were reported on the website. BMW was the most successful brand with 52.8 satisfaction points. Audi followed with 51.11, and Mercedes received 46.98 points. According to the report, Mercedes has a poor response rate for customer complaints.

For the budget automobile sector, 4,062 complaints were reported in 2013. Renault was the most successful brand in dealing with customer complaints with a rating of 56.7 points. Fiat came second with 54.1 points, and Hyundai was in third place with 53.1 points.

According to the Şikayetindex Raporu (2013), 7,480 complaints were reported in the 'white goods' category. Vestel was the brand with the highest number of satisfied customers, receiving a 72.2% satisfaction level for the category of 'white goods'. Beko stood in second place with 62.4%, and Arcelik was in third place with a rating of 62.1%. Profilo, Bosch, Siemens and AEG-Elektrolux are also listed as companies with high customer satisfaction.

There were also 18,835 complaints reported in the cargo/shipping sector. The most successful company chains are listed below:

1. Surat Kargo – 72.4 points
2. UPS Turkey – 60.1 points
3. Aras Kargo – 56.4 points

Mobile phone companies received 51,640 complaints in 2013. Turkcell, with 56.6 points, has the highest rating for responding to customer complaints. In second place was Vodafone with 52.1 points, followed by Avea with 49.1 points.

sikayetim.com (my complaint.com)

Another website for complaints is sikayetim.com ¹⁶ (mycomplaint.com). Established in March 2004, the site aims to increase consumer awareness in line with EU standards.

Consumers submit their complaints to the website. Later, the website contacts the relevant companies. If a company responds to the complaint in five days, the website publishes the complaint together with the company's positive or negative response. If not, the website only publishes the complaint.

¹⁶ <http://www.sikayetim.com>

Table 9. sikayetim.com categories

	Category	Total
1.	Shopping Centres (Alışveriş Yerleri)	1,784
2.	Technological Products (Teknolojik Ürünler)	1,353
3.	Media (Medya)	1,342
4.	Banking (Bankacılık)	1,328
5.	Telecommunication – Phone/Internet (Telekomunikasyon – Telefon/Internet)	982
6.	Personal Products (Kişisel Ürünler)	976
7.	Home/Office Equipment (Ev/Büro Araç Gereçleri)	825
8.	Technology Markets (Teknoloji Marketleri)	492
9.	Shipping (Kargo)	467
10.	Transportation/Carriage (Ulaşım/Taşıma)	439
11.	Furniture (Mobilya)	297
12.	Automotive (Otomativ)	283
13.	Insurance (Sigortacılık)	204
14.	Tourism/Holiday/Accommodation (Turizm/Tatil/Konaklama)	202
15.	Energy Products (Enerji Ürünleri)	189
16.	Technical Service (Teknik Servis)	181
17.	Electronics (Elektronik)	156
18.	Food and Beverages (Yiyecek İçecek)	153
19.	Computers (Bilgisayar)	150
20.	Health (Sağlık)	113
21.	Service Sector (Hizmet Sektörü)	107
22.	Education/Teaching/Care Institutions (Eğitim/Öğretim/Bakım Kurumları)	59
23.	Temizlik (Cleaning)	49
24.	Construction (İnşaat)	40
25.	Fuel Companies (Akaryakıt Şirketleri)	23
26.	Entertainment (Eğlence/Yaşam)	21
27.	Information Technology (Bilişim Teknolojileri)	15
28.	Public (Kamu)	13
29.	Local Government (Yerel Yönetimler)	10
30.	Building/Construction/Garden/Equipment (Yapı/İnşaat/Bahçe ve Makinaları)	4
31.	Finance/Investment/Insurance/Law (Finans/Yatırım/Sigorta/Hukuk)	2
32.	Food (Gıda)	2
33.	Clothing/Shoes/Bags/Wallets/Suitcases/Jew ellery (Giyim/Ayakkabı/Çanta /Cüzdan/Bavul/Takı)	2
34.	Information/Technology (Bilişim/Teknoloji)	1

Source: <http://www.sikayetim.com/kategori-52/yiyecekicecek.html>

Tüketici Başvuru Merkezi – A Facebook Group

Another medium for complaints is the Facebook group ‘Tüketici Başvuru Merkezi’ (Consumer Application Centre). The Facebook group is run by As Tüketici Başvuru Merkezi Derneği (Association of Consumer Application Centres), which was established in 2012 and is based in Antalya. The Chairman of the NGO and the moderator of the Facebook group is İbrahim Güllü. Tüketici Başvuru Merkezi has 62,322 members on Facebook.

Further pathways for consumer complaints exist through the police or sector-specific complaint models, the Banks Association Consumer Complaints Arbitration Panel and the Telecommunications Authority.

The Istanbul Metropolitan Municipality Police (Zabita)

A person who has a complaint can inform the city police by dialling 153 or filling out an online form.¹⁷ People can submit complaints about services provided by the Istanbul municipality, and also complaints related to general safety and health regulations.

The Istanbul Metropolitan Municipality Police (Zabita) has also published online materials on consumer rights. Unlike the Ministry of Trade, Zabita’s information is up to date. In its reports, Zabita names consumers ‘the best controllers’, encouraging them to research the market, compare prices and keep up to date, informing consumers what to pay attention to when purchasing goods and services.

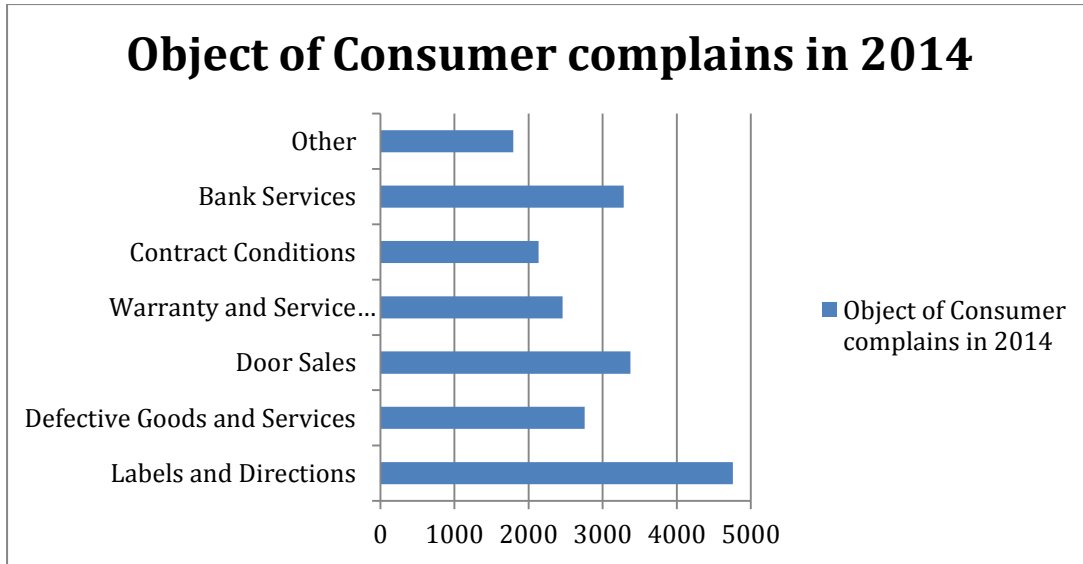


Figure 1. Consumer complaints 2014

Source: http://www.ibb.gov.tr/sites/zabita/Site/Documents/faaliyet_Raporu_2014.pdf

¹⁷ <https://crmweb.ibb.gov.tr>

Applications were mostly submitted by phone (14,427). The second most popular method was through an online form (5,195), followed by complaints submitted personally (869), and lastly complaints submitted via email (72).

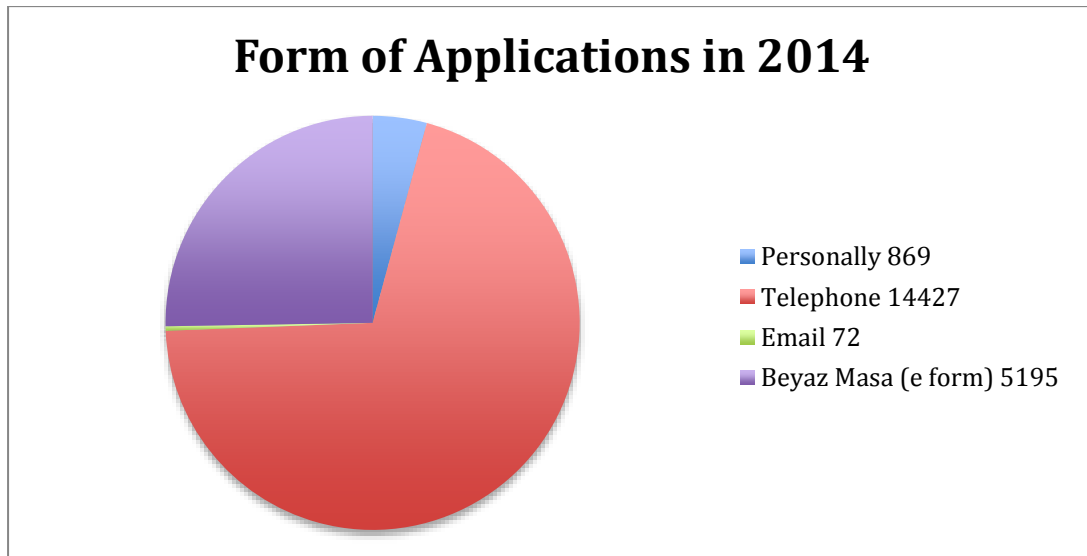


Figure 2. Form of application 2014

Source: [http://www.ibb.gov.tr/sites/zabita/Site/Documents/faaliyet Raporu 2014.pdf](http://www.ibb.gov.tr/sites/zabita/Site/Documents/faaliyet_Raporu_2014.pdf)

Figures 3 and 4 show the age and education levels of consumers who submitted complaints in 2014.

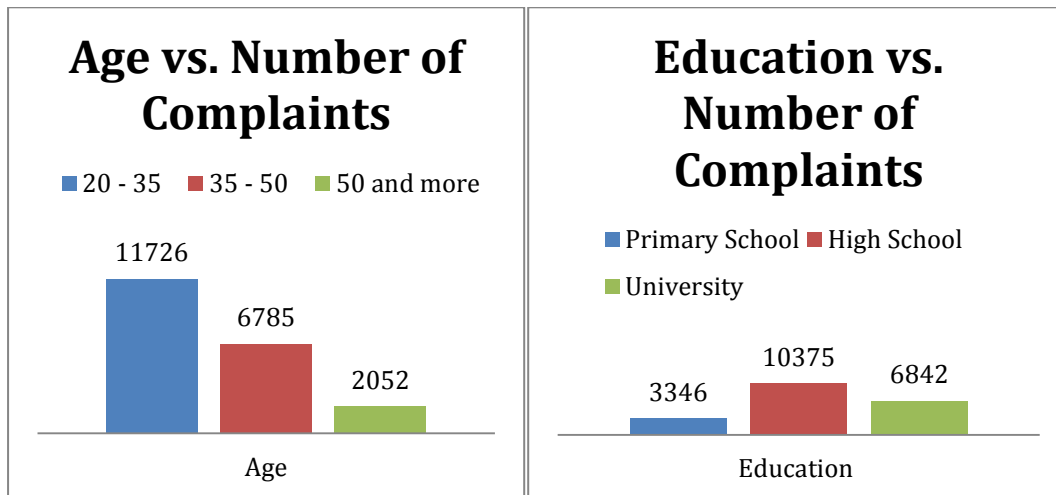


Figure 3. Age in relation to number of complaints

Figure 4. Education in relation to number of complaints

The figures show that the majority of complaints were brought by 20–35 year olds. Another clear trend relates to education levels of complainants: the majority of complainants are educated to high school or university level.

Figure 5 shows the growing number of consumer complaints from 2007–2014.

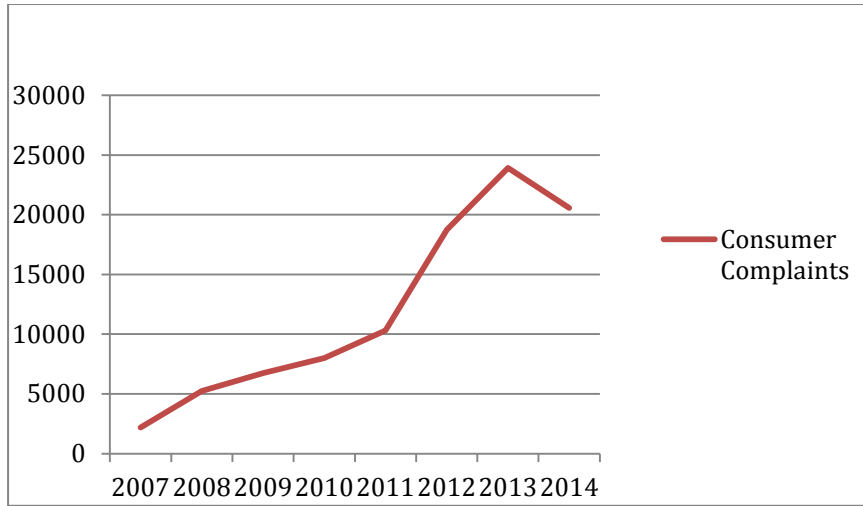


Figure 5. Number of complaints 2007–2014

Source: http://www.ibb.gov.tr/sites/zabita/Site/Documents/faaliyet_Raporu_2014.pdf

The Bank Association of Turkey Consumer Complaints Arbitration Panel

The Bank Association of Turkey published its annual report in April 2015. According to this report, there were 13,828 complaints submitted to the Panel from 1 January 2014 to 31 December 2014. Out of these, 9,035 (65%) were rejected.

Of the rejected applications, 39 were dismissed because the complaints had not been submitted directly to the relevant bank, but instead to the Panel, so the Panel had directed the complainants back to banks. Due to missed deadlines and initiation of legal procedures in court, 2,012 were rejected. Incomplete applications (e.g. problems with the application form, signatures, bank's official response, etc.) caused 6,984 to be dismissed. Out of 4,792 applications that were considered, 58% were concluded in favour of the customer; this was partly thanks to the banks' eagerness to overcome the complaint issues.

Table 10. Applications to the Panel in 2014

Product and service	Total applications received	Rejected	Results of accepted complaints			
			Resolved in cooperation with the bank	In favour of the customer	In favour of the bank	Concluded (%)
Bank and credit cards	5,303	2,733	1,055	318	1,197	53
Consumer loans	4,587	3,582	208	384	413	59
Other banking products and services	3,440	2,434	531	171	303	69
Insurance transactions	498	286	66	40	106	50
Total	13,828	9,035	1,860	913	2,019	58

Table 11. Applications to the Panel in 2014 – Percentage of decisions in favour of customers

Applications decided by the Panel				
Product and Service Groups	In favour of customer	In favour of the bank	Total number of decisions	Percentage of decisions in favour of customer (%)
Banks and credit cards	318	1,197	1,515	21
Consumer loans	384	413	797	48
Other banking products and services	171	303	474	36
Insurance transactions	40	106	146	27
Total	913	2,019	2,932	31

The table shows that 2,019 cases were decided in favour of the bank and 913 in favour of the consumer. Further, the vast majority of applications were rejected. Here we need more detail to assess the grounds on which this happened.

*Telecommunications: Information and Communications Technologies Authority (ICTA)*¹⁸

One of the aims of the Electronic Communications Act No. 5809, adopted in 2008, is to regulate and safeguard effective competition and protection of consumer rights in relation to electronic communication services.

Pursuant to this Act, operators are obliged to provide electronic communications services under equal and non-discriminatory conditions. The ICTA deals with complaints of consumers. It can also act on its own initiative. Unfortunately, the annual report of the ICTA does not specify what consumers were complaining about in 2014.

In 2013, the ICTA issued a new regulation, which demands that mobile phone companies set up their own customer complaints services. The companies began to provide online customer complaint services on 1 April 2014.¹⁹

Newspaper 'Letters to the Editor'

Consumers in Turkey used to send their complaints to the newspapers. Up until the end of the 1990s, most newspapers had either columnists or editors to deal with readers' complaints regarding goods and services. For instance, readers might have contacted the newspaper if they were unsuccessful in returning a defected good to a company. Journalists would contact the company on behalf of the reader/customer to solve the problem. If companies were not cooperative, the complaints from readers/customers were published in the newspaper. Newspapers stopped this service as advertising began to play a bigger role, which prompted a change in newspaper policy regarding the criticism of companies. This development lends itself to a more detailed exploration through a follow-on in-depth project that considers evidence from old newspapers.

The Hurriyet newspaper is one of the few newspapers that still covers consumer complaints to some extent. Journalist Erkan Celebi, for example, writes columns about consumer rights. He mostly writes about general issues and does not quote any customer names. Since 1997 he has only written about consumer complaints once or twice a month.²⁰ This seems to suggest that consumers have moved to using more recent types of media to voice their concerns and complaints.

¹⁸ <http://eng.btk.gov.tr/>

¹⁹ <http://www.bugun.com.tr/btk-isletmecilere-tuketici-sikayet-sistemi-olusturma-zorunlulugu-getirdi-haberi/913560>

²⁰ http://sosyal.hurriyet.com.tr/Yazar/erkan-celebi_18

Part Two of this report provided a brief overview of the various pathways that people can use in Turkey to raise complaints about goods and services. It is clear that there is a range of both formal and informal complaints mechanisms which are being used in Turkey. Some avenues are prioritized over others and it seems that some sectors that are subject to more regulation, like telecommunications and banking, have more robust formal complaints mechanisms in place compared to other, less regulated, sectors. Also, this section has provided details of the types of complaints consumers are making, with banking and financial services showing high numbers of complaints across most avenues of consumer complaints.

PART THREE – CASE STUDY: THE FINANCIAL SECTOR

There are many areas that attract consumer complaints, as the previous section showed. We decided that financial services would form a good case study to focus on in this pilot project. The financial sector is one of the most complained about sectors in emerging economies. This part offers an overview of consumer protection mechanisms in Turkey's financial sector, and a discussion of the use of social media to complain, followed by the methodology we developed for the social media analysis and presentation of results.

7. Consumer Protection in Banking and Financial Services

The Bank Association of Turkey Consumer Complaints Arbitration Panel²¹

The Bank Association of Turkey Consumer Complaints Arbitration Panel is a conciliation panel entrusted with the task of resolving disputes between bank members of the Banks Association of Turkey and their customers.

There are four types of panel within the organization of the Banks Association of Turkey:

- Debit Cards and Credit Cards Arbitration Panel
- Consumer Credit Arbitration Panel
- Insurance Transactions Arbitration Panel
- Other Banking Products and Services Arbitration Panel

These panels have been formed within the frame of a Communiqué issued with the consent of the Banking Regulation and Supervision Authority (BRSA) in reliance on the duties and powers vested in the Banks Association of Turkey by the Banking Law No. 5411.

Composition of panels

²¹ <http://www.tbb.org.tr/en/banking-legislation/professional-codes-/71>

Each panel is composed of five full and five associate members. At least two full members are graduates of law faculties. Three full and three associate members of the panels are elected by the Association's Board of Directors from the nominees of members of the Banks Association of Turkey, and the remaining two full and two associate members are representatives elected and appointed by the BRSA.

Members elected by the Association's Board of Directors are required to have an at least seven years' banking experience.

Application process

Before submitting an application to the Arbitration Panel, the consumer must first apply to the relevant bank in writing (alternatives: email, registered mail). In return, the bank will issue an 'application confirmation certificate' that enables the next stage of the process.

Following the submission of an application, the bank has to respond within 30 days of the date of the application confirmation certificate. The time limit is only 20 days in relation to debit and credit cards. The complaint to the Panel may be made within 60 days of receipt of a written response from the bank or, if the bank fails to respond, within 60 days of the end of the bank's response period.

Application to the Consumer Complaints Arbitration Panel is done by completing the complaint form. The claim must be formulated briefly and accurately. It is possible to file several complaints against the same bank, or for the same complaint to be filed against more than one bank. The application process is open only to natural persons, not legal entities or natural persons applying with respect to transactions relating to their commercial activities.

The Consumer Complaints Arbitration Panel will not review the following complaints:

- those that are not submitted to the Panel within 60 days of receipt of a response from the bank head office or relevant bank branch;
- those that are not initiated by the complainant within two years following the date of occurrence of the underlying transaction or action;
- those that have already been referred to the courts;
- those that arise out of banking transactions that are by nature not personal or retail;
- general complaints about banks and their range of services;
- those related to decisions taken by a bank adjudged bankrupt or in liquidation;
- acts that are classified and defined as crimes by the applicable laws;
- those related to transactions which are at bidding and evaluation stage, or are related to pricing policies of banks, and are not yet executed;
- those that have already been reviewed and resolved by the Panel;

- those that have been resolved between the complainant and the bank, without prejudice to the complainant's rights of objection thereto;
- those that are, after submission of the application to the Panel, referred to the courts and ceased to be handled by the Panel.

Applications may be submitted to the Arbitration Panel by email, fax or ordinary mail. In the case of applications by email, a print-out of the complaint form in the 'Consumer Complaints Arbitration Panel' section of the Banks Association of Turkey's website²² must be completed in the bank or via the Internet, scanned and attached to the email.

The registered applications are subject to preliminary examination by the Secretariat. If needed, the Secretariat may request that the applicant provides additional information and documents. A written response is sent within fifteen days to the holders of applications, deemed fit and eligible, to inform them that their application is eligible for processing. The application documents are sent to the relevant bank with a covering letter, and the bank's comments are requested.

If the Secretariat finds the application non-eligible and unfit for submission to the Arbitration Panel, a notice explaining the reasons thereof is sent to the applicant no later than 90 days from the date of such a decision. This notice states that the application has been refused or that, if an application is made in accordance with the applicable laws, the applicant's complaint will be examined. Applications submitted to the Arbitration Panel are responded to and finalized within a maximum of 90 days.

A copy of the award of the Arbitration Panel is sent both to the bank and to the applicant within 20 days of the date of award. Rights of the parties to apply to courts with respect to the complaints are reserved.

Review of complaints submitted to the Panel does not suspend the legal periods or limitations to submit petitions to the court or arbitration.

Within fifteen days of receipt of an award of the Panel in favour of the complainant of an amount up to 2,000 Turkish Lira, the bank enforces the award and informs the complainant, and makes a report of the enforcement and other information to the Banks Association of Turkey. A consumer may make a complaint about any bank that is a member of the Banks Association of Turkey. Complaints about foreign branches of member banks are not acceptable. Complaints against participation banks shall be submitted to the Participation Banks Association of Turkey. All services of the Arbitration Panel are free of charge.

8. The Use of Social Media to Complain

The Internet has opened up a vast new platform for consumer complaints.

²² www.tbb.org.tr

Through social media, users can easily engage online through handheld devices or computers. The most used social media services are blogs, wikis, social bookmarking tools, social networking sites, status-update services, virtual worlds, and media-sharing sites (Dewing 2010). Generally speaking, there are no clear boundaries between functions, which means that some services can serve as both a status-update site as well as a social network. The project seeks to explore how consumers make use of these social networking sites to voice and potentially resolve their complaints.

Sikayet Var is on Facebook (136K followers), Twitter (29.4K followers), and it has a smart phone application and a YouTube channel. Some of the organisations listed in Part One of this report are very active on Twitter and Facebook. In general, Turks use social media a lot for everything. Those that follow the pages of consumer protection NGOs often submit their complaints through social media.

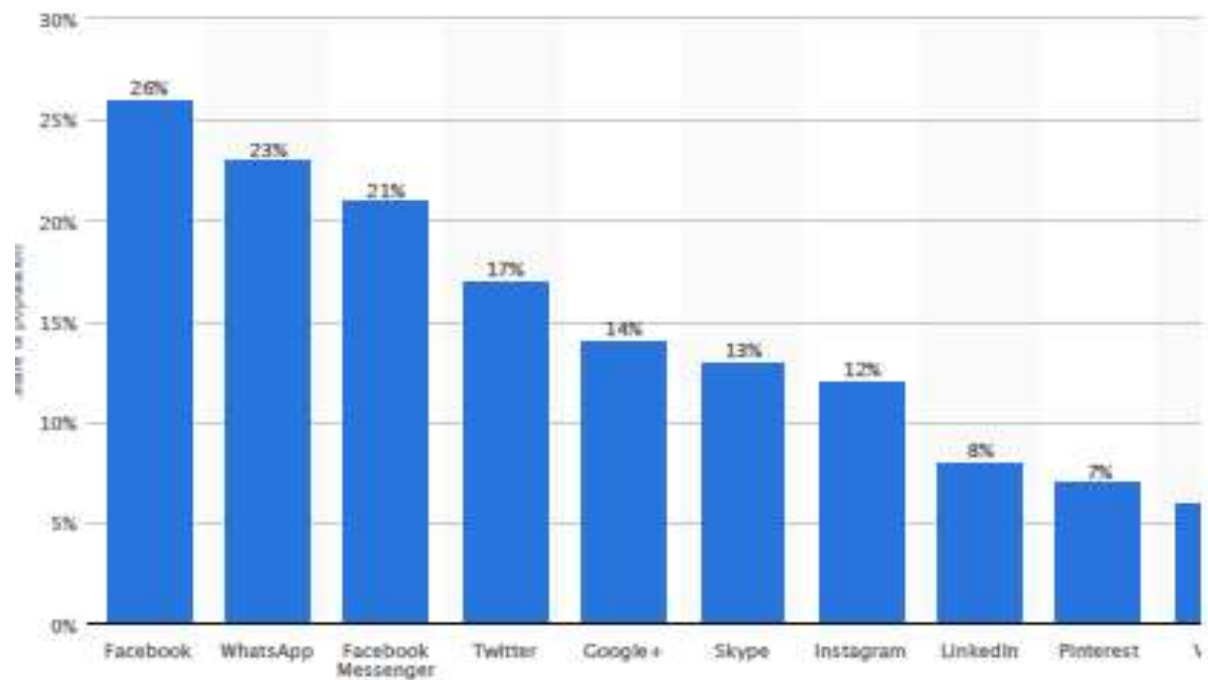


Figure 6. Penetration of leading social networking sites in Turkey (4th quarter 2014)

Figure 6 presents the penetration of various social networking sites in Turkey as of the 4th quarter of 2014. Overall, 52% of the population actively uses social media. The most popular social network was Facebook with a 26% penetration rate.

We are interested in following the use of social media as a tool for consumers to raise their complaints and to get a reaction from the company complained about. We decided to look at Twitter as the social media instrument as it is used in the other countries covered in the project. Many consumers use Twitter as a platform, prompting companies to respond and provide assistance

through the medium of social media.

The next section discusses the methodology used for the collection of Twitter data from consumer interactions with the largest banks in Turkey.

Methodology

The aim of this short methodological exploration was to understand consumers' habits in using Twitter to communicate and complain about banks. We wanted to get a feeling for what people were complaining about (through Twitter), who they were addressing and if the banks were responsive. For this purpose, we chose a common methodological approach. We selected the six largest banks in Turkey: İş Bankası, Garanti Bankası, Akbank, Finans Bankası, ING Bank and Yapi Kredi.²³

Data collection, cleaning and visualization

Six prominent Turkish banks were selected to serve as case studies; all are active on Twitter and have received customer complaints. The Twitter handles associated with these banks were identified; some banks had both a general handle and a dedicated handle for customer queries. Hashtags associated with these banks were also identified.

Tweets containing any handle or hashtag associated with one of the banks were collected directly from the Twitter API via Python scripts. To extend the time period of data collection, the REST and Streaming APIs were both queried. The REST API provides recently published tweets (no more than two weeks old), and the Streaming API provides real-time tweets. As the REST API script was run on 22 December 2015, it gathered data from 12 to 22 December 2015; the Streaming API script was run from 23 December 2015 to 7 January 2016. The entire JSON file containing all metadata for all tweets was collected, and only the relevant metadata fields (tweet ID, date, username, tweet text) were extracted into Excel for analysis. As many of the tweets were not in English, encoding problems had to be resolved to render the characters legible. One Excel spreadsheet was created for each bank.

Due to privacy issues, Twitter no longer allows for the automatic collection of replies to a list of tweets; for every tweet gathered the ID of the reply tweet is provided (if applicable). Thus, to obtain replies, a separate script was used to query the API for all tweets specifically sent from any bank Twitter handle that contained the ID of any tweet collected in the `in_reply_to_status_ID` field (a 'status' is a 'tweet'). Another script combined the original tweet and reply tweet files to display the replies directly beneath the original tweets.

In February 2016, two banks were further investigated: Garanti Bankası and İş Bankası. By March 2015, İş Bankası was the second biggest and Garanti the third biggest bank in Turkey. (The biggest bank is Ziraat Bankası, which is state-

²³ In Indonesia we chose Bank Mega, Bank Indonesia, Bank Mandiri, Bank Danamon, Bank BNI and CIMB Niaga.

owned.) Tweets containing any Twitter handle associated with either bank were gathered from the REST API, which provided data from 1 to 10 February 2016. These tweets were hand-coded, complaint categories were inductively generated and visualizations were made through Excel. The categories coded were:

1. Security and Internet hack
2. Waiting times (hotline and in branch)
3. Website (content is not user friendly)
4. Actors in adverts (the banks image to the customer)
5. Overcharging fees (maintenance fee for accounts per annum, students and charging for money transfer)
8. Political (e.g. Atatürk)
9. Bank does not respond to direct message
10. Repeat complainants
11. Other/ambiguous.

For both banks, pie charts were made to show: a) the split among complaints, non-complaints and ambiguous tweets; and, b) the split between complaints that had a reply and those that did not. A significant proportion of tweets containing a handle of either bank were complaints: 53% for Garanti Bankası and 47% for İş Bankası. Less than half of these complaints received replies: 47% for Garanti Bankası and 38% for İş Bankası. Bar graphs were created to illustrate the frequency of complaints falling within each category identified. The most popular category was overcharging fees for İş Bankası and waiting times for Garanti Bankası.

The following financial service institutions were analyzed:

BANK NAME	TWITTER PAGE	TWITTER HANDLE(S)	HASHTAG(S)
Garanti Bankası	https://twitter.com/garanti	@garanti	#garantibankasi, #garanti_bankasi
İş Bankası	https://twitter.com/isbankasi	@isbankasi	#isbankasi
Akbank	https://twitter.com/akbank	@Akbank	#akbank
Finans Bankası	https://twitter.com/finansbank	@finansbank	#finansbank
ING Bank	https://twitter.com/ingbankturkiye	@ingbankturkiye	#ingbankturkiye
Yapi Kredi	https://twitter.com/YapiKredi	@YapiKredi	#YapiKredi

Data

This section provides the preliminary analysis of the tweets collected from the two banks—Garanti Bankası and İş Bankası—to get an idea of the type of complaints. The tables and graphs below provide an overview of how Twitter is

used by people when communicating or complaining about the two banks in Turkey.

Garanti Bankası

Garanti Bankası was established in 1946. It is Turkey's second largest private bank with consolidated assets of USD 103.1 billion.²⁴ As of 31 March 2016, Garanti provides a wide range of financial services to more than 14 million customers with its 19,800 employees through a network of 972 domestic branches, 7 foreign branches in Cyprus, 1 in Luxembourg, 1 in Malta, 3 international representative offices in London, Düsseldorf and Shanghai, and 4,540 ATMs, call centres, Internet, mobile and social banking platforms. Spanish lender BBVA is the leading shareholder in Garanti. While the BBVA Group owns 39.9% of Garanti, Turkey's Dogus Group owns 10.0% of the shares. Garanti had an actual free float of 50.02% in Borsa Istanbul as of 31 March 2016.

Garanti Bankası is famous for using social media effectively in responding to customer complaints. For instance, in 2013, Garanti Bankası was awarded the best in social media in the Central and Eastern Europe region (ibid).

Garanti Bankası holds the ISO 10002:2004 Complaint Management System certificate, which is subject to renewal every year. It claims to be the first Turkish bank that certified its Complaint Handling System by international standards. In 2014, 'GarantiyeSor' (AskGaranti), the Social Media Customer Satisfaction Team, contacted an average of 4,500 customers via social media on a monthly basis, and offered services around the clock, responding to user questions and comments within a maximum of two hours (Garanti annual report 2014).

Garanti accepts complaints through its website and call centre: 444 0 338. Its Facebook page and Twitter account (GarantiyeSor; Ask Garanti) provide support and responses to customer complaints. By 2014, Garanti had 3.6 million Facebook followers and 513,000 followers on Twitter.

Figure 7 shows the types of complaints reported in our data for Garanti Bankası tweets.

²⁴ http://www.garantibank.ro/en/about_us/awards.html

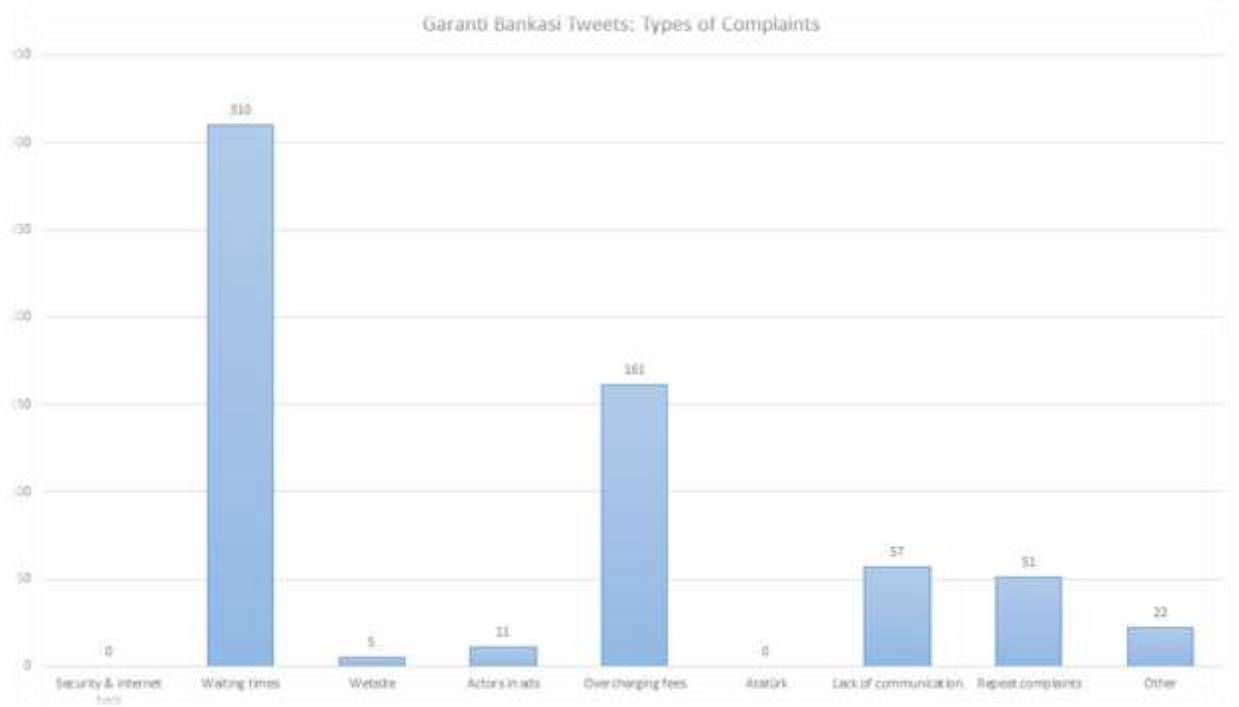


Figure 7. Types of complaints

The main source of complaints was waiting times in branches of the bank, which 330 people tweeted about in our sample. A further 161 tweets concerned overcharging fees on personal accounts and 57 complained about the lack of communication from the bank. Fifty-one were repeat complaints.

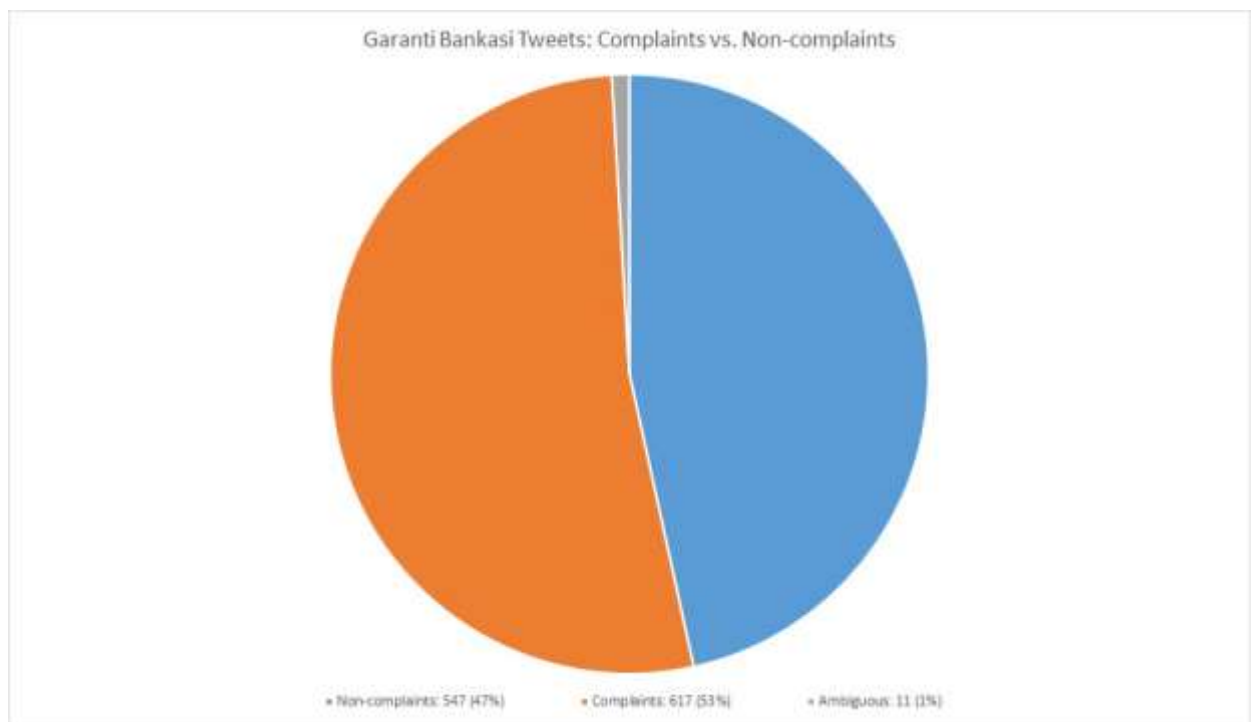


Figure 8. Garanti Bankası tweets: complaints vs non-complaints

We were interested to understand how Twitter is used as a viable vehicle for complaints, or rather as a means to voice dissatisfaction. Figure 8 indicates that our sample of Garanti Bankası tweets can be divided into 47% non-complaints and 53% complaints (with 1% ambiguous). This means that nearly half of the tweets are not complaints about specific issues but rather consumers putting across their thoughts and comments into the Twittersphere. Consumers were upset that the bank was not taking any notice of their tweets.

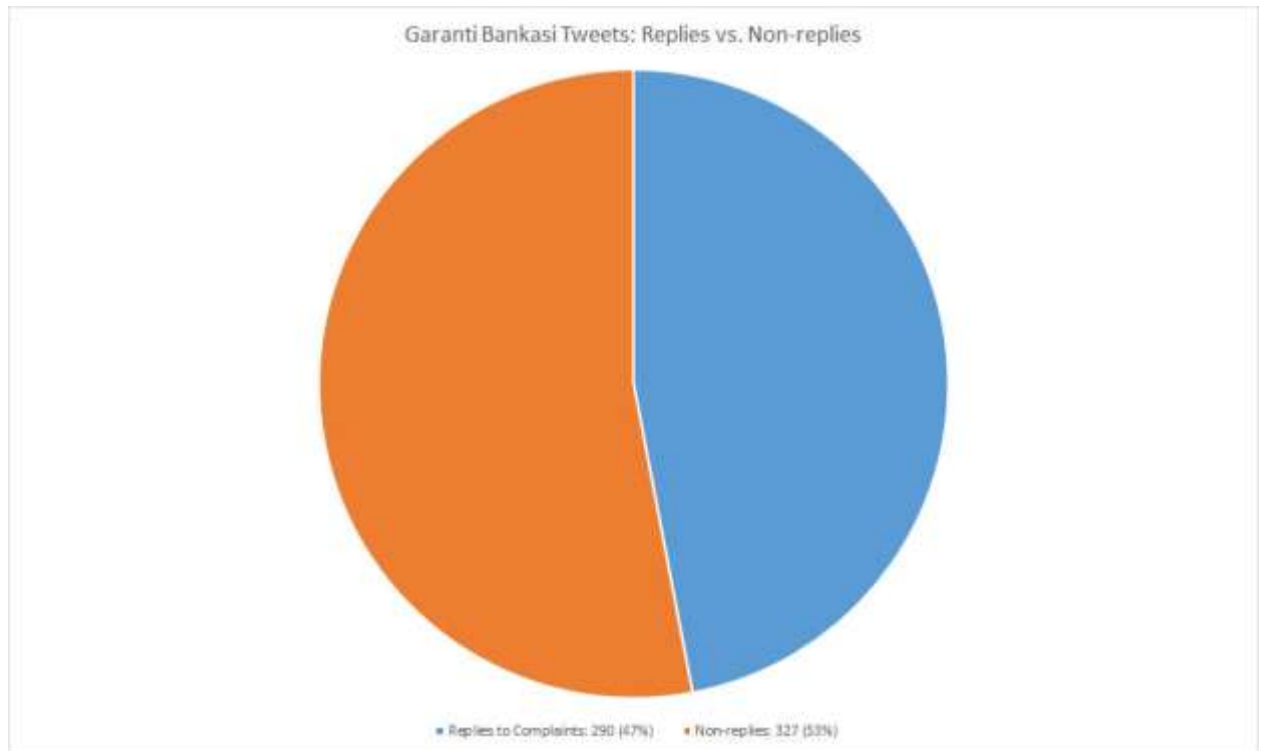


Figure 9. Garanti Bankası tweets: replies vs non-replies

We were curious as to whether the banks acknowledged and replied to customer tweets. The dataset for Garanti Bankası showed that there were 290 (47%) responses to tweets, and that 327 (53%) were not replied to. These responses, however, were usually through direct message (DM) rather than responding tweets.

İş Bankası

İş Bankası was established in 1924. By 2015, it was Turkey's largest private bank with total assets worth 275.5 billion Turkish Lira. It has 1,354 domestic branches and the largest ATM network, with 6,582 ATMs (İş Bankası Annual Report 2015). İş Bankası has approximately 185,000 shareholders. The bank ranks 96th in the World's Biggest 1,000 Banks list (ibid). The bank has 17.5 million customers and provides banking services in 14 countries. It has approximately 57,000 employees and 106 affiliated companies.

İş Bankası accepts complaints through its website and call centre. Like Garanti, İş Bankası has Facebook and Twitter accounts. Previously, İş Bankası had been criticized for its slow customer service. For instance, the Customer Relations Unit's (CRU) response time took almost three days. By 2013, İş Bankası restructured the CRU and launched the Corporate Correspondence Strategy Project. It managed to reduce the average response time from nearly two days to less than one day between 1 July 2014 and 1 July 2015 (Turkiye İş Bankası Customer Service Complaints Team 2016). There was also a 20% fall in the total number of complaints between July 2014 and July 2015 because of improved overall processes. The new strategy was awarded the Gold Stevie Award in 2016 for sales and customer service.

The following figures show the Twitter data collected, divided into types of complaints, complaints and non-complaints, and responses or non-responses.

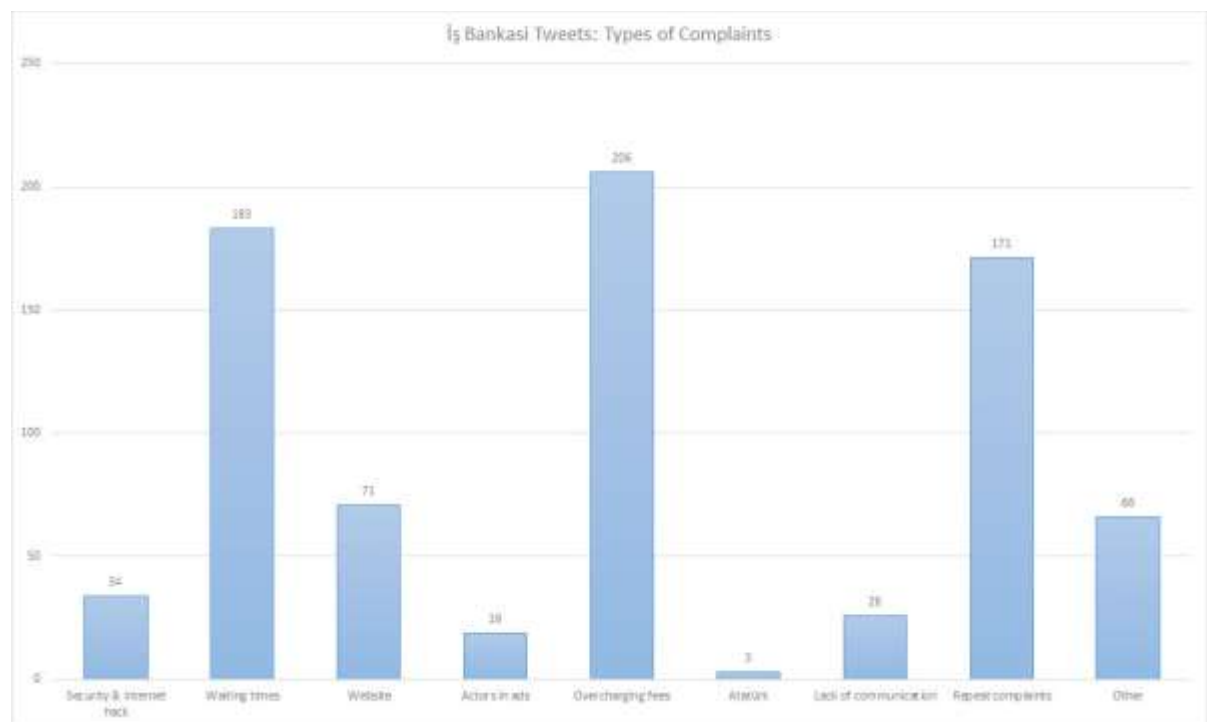


Figure 10. İş Bankası tweets: types of complaints

The categories of complaints for İş Bankası present a similar pattern to those for Garanti Bankası: 206 tweets complained about overcharging fees; 183 about waiting times in branches; and 171 were repeat complaints.

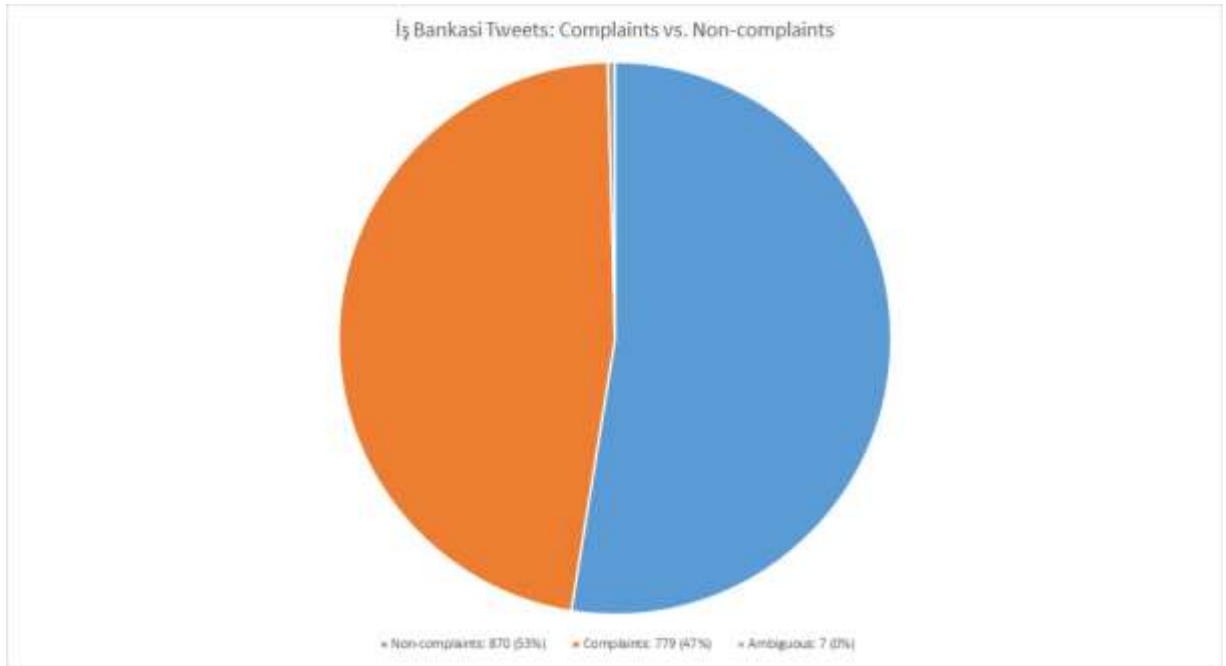


Figure 11. İş Bankası tweets: complaints vs non-complaints

In this sample, we identified 870 (53%) of the tweets to be non-complaints and 779 (47%) to be complaints.

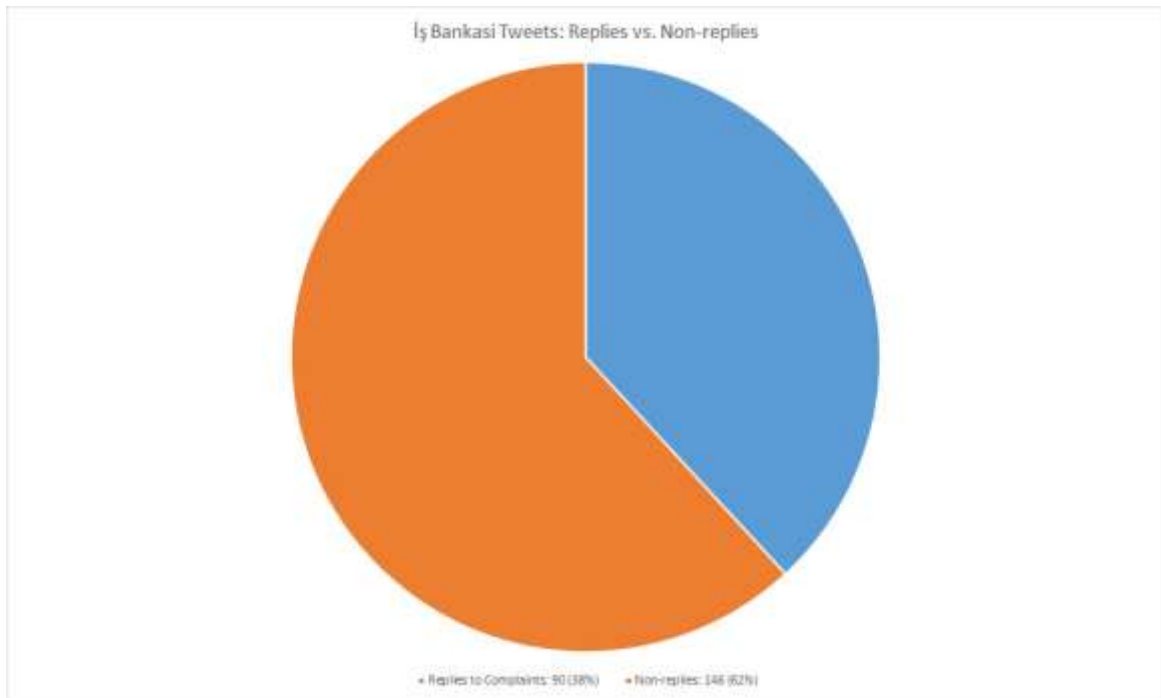


Figure 12. İş Bankası Tweets: replies vs non-replies

Within the identified complaints data, 90 (38%) received replies from the bank and 146 (62%) did not.

Our sample shows that there are general trends in the tweets. Customers complain about waiting times in branches, lack of communication and

overcharging for accounts. This initial pilot of tweet analysis suggests that customers do use Twitter as a tool to voice their grievances; however, we cannot determine if this is for the sake of putting something out there, or whether they are seeking a response from the bank. We included a search for responses to people's tweets; mostly the bank responded directly to the customer via email or direct messaging, so we could not follow this up. It would be interesting to find out if Twitter is a fruitful means by which to complain and to be heard by the banks, and to what outcomes this leads.

CONCLUSIONS

This report aimed to provide a better understanding of the state of the consumer protection framework in Turkey. It is a snapshot and speed-walk through various consumer protection laws, consumer organizations and NGOs protecting consumer rights and helping consumers complain about faulty goods and services. The case study focussing on financial services provided an overview of a sector that attracts a large amount of complaints and is therefore interesting to study.

The report findings indicate that consumer protection is not at the forefront of the Turkish government's agenda. Although there are many institutions that can help consumers to access justice and explain their rights to them, they are not bound by shared values or oversight. An important role in consumer protection is played by the third sector: there are numerous NGOs focussing on consumer protection topics, proving a platform for complaints and linking complainants with the companies complained about (e.g. Sikayet Var). They also provide education on consumer protection and related rights.

The banking sector is a tightly regulated sector and thus has a better developed customer complaints mechanism. The arbitral panels outlined in this report show that many complaints are brought to them and the amount of complaints have been growing steadily.

The frequent use of social media (as analyzed using Twitter in this report) to voice concerns about banks is apparent. Social media has definitely created a unique platform for consumers to voice their complaints and thoughts. With regard to our selected banks, it is apparent that the numbers of complaints and non-complaints were almost equal in our sample. Another interesting observation is that the banks did not respond publicly to the majority of complaints; rather they chose DMs. The extent to which redress was obtained as a result of the complaints is not possible to assess, as the DMs are private.

We will need to analyze more of our data to detect clearer trends in the use of social media to complain in Turkey. We did, however, establish that consumers make use of social media to voice their complaints in the studied context. Arguably an ill-equipped and not-yet-developed consumer protection framework and the lack of availability of alternative dispute resolution models fuel this for consumers in Turkey.

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