

OECD-Korea Regional Centre for Competition

Annual Performance Report 2006

For almost 3 years, the Organization for Economic Co-Operation and Development (OECD) and the Korea Fair Trade Commission have jointly operated the OECD-Korea Regional Centre for Competition (RCC).¹ Broadly speaking the purpose of the Centre is to assist Asian competition authorities in developing and implementing sound competition law and policy. The OECD-Korea RCC is supported in these efforts through the work product of the OECD Competition Committee, the assistance of OECD member countries (through the provision of experts), professional support from the Competition Division and generous financial and professional support from Korea.²

I. Overview of 2006 Activities

In 2006 the Korea RCC continued its efforts to promote strong competition law and policy throughout Asia. It conducted 8 events which focused on the following areas: antitrust market definition, anti-cartel enforcement best practices, bid-rigging, buyer power, abuse of dominance, assessing market power, merger remedies, consumer protection and analysis skill building. Through these events, the Korea RCC continued to focus its efforts on building capacity at Asian competition authorities.

The Centre's programs are primarily designed for front-line competition officials. By the end of 2006, 182 officials had attended RCC events either in the capacity of an expert or as a participant.³ This represented a significant expansion over 2005 activities which saw 138 people attending the Centre's events. As the Centre's events typically last longer than many other capacity building events of this type, it is important to measure RCC activities in terms of the number of days that officials participated in the activities of the Centre. In this regard, the RCC delivered 665 person-days of capacity building in 2006. Through the

¹ The OECD-Korea Regional Centre for Competition was established in May, 2004.

² The Competition Committee is an OECD body that brings together the leaders of the world's major competition (or antitrust) authorities to exchange views and analysis on important competition issues. The Competition Committee brings together the 30 members of the OECD and 9 non-members. The Committee works for the adoption of market principles as the cornerstone of governments' policy initiatives and the reduction of anti-competitive conduct and market-distorting government measures and practices. The Competition Division is a special unit inside the OECD's Directorate of Financial Enterprise Affairs and supports the work of the Committee.

³ An additional 12 officials from Korea delivered presentations at the Centre's outreach events which brings the total number of officials participating in RCC activities to 194.

Centre's events, experts and participants from 14 countries were involved in RCC activities including Australia, Cambodia, China, Hong Kong China, Indonesia, Korea, Japan, Mongolia, Singapore, Chinese Taipei, Thailand, the United Kingdom, the United States, and Vietnam⁴. In addition, the European Commission participated in RCC activities.

II. Detailed Review of 2006 Activities

The Korea RCC conducted 8 events in 2006 of which 3 were for the Korean Fair Trade Commission (KFTC) and 5 were primarily for officials from countries which are not members of the OECD. These latter seminars focused on antitrust market definition, anti-cartel enforcement best practices, bid-rigging, buyer power, abuse of dominance, assessing market power, and merger remedies. The 3 KFTC seminars focused on merger control, cartel and bid rigging issues, abuse of dominance, consumer protection and analysis skill building.

Capacity Building Seminars

Tables I and II provide detailed information on countries participating in Korea RCC activities as well as information about each event. Additional detailed information about the substance of each seminar can be found in the Annex to this report. Over the year, 85 participants attended these events in Seoul. This represented 255 person-days of capacity-building assistance for officials from competition authorities.⁵ One reason that the Centre was able to provide capacity building of that magnitude is because in 2006 the KFTC began sending officials to participate in the Centre's general capacity building programs.⁶ Indeed, because the RCC is located in Seoul, numerous Korean officials attended RCC events. After Korea, the next most intensive users of RCC resources were Singapore, China, Indonesia, and Vietnam.

⁴ This also was an expansion on 2005 activities, which saw 11 countries participate in the Centre's activities that year.

⁵ In addition to the officials participating in the event, Japan sent 8 experts to the Centre's events, Australia sent 3 experts, the United States sent 2 experts and the European Commission and the United Kingdom each sent 1 expert.

⁶ In 2005 the KFTC sent 4 officials to general capacity building events.

Table I. Number of Participants and Events Attended

| Country | Number of Participants | Person-Days | Events Attended |
|----------------|-------------------------------|--------------------|------------------------|
| Korea | 20 | 60 | 4 |
| Singapore | 14 | 42 | 5 |
| China | 12 | 36 | 5 |
| Indonesia | 10 | 30 | 5 |
| Vietnam | 10 | 30 | 5 |
| Chinese Taipei | 6 | 18 | 5 |
| Hong Kong | 4 | 12 | 1 |
| Mongolia | 3 | 9 | 2 |
| Cambodia | 2 | 6 | 2 |
| Thailand | 2 | 6 | 2 |
| Malaysia | 1 | 3 | 1 |
| Pakistan | 1 | 3 | 1 |
| Total | 85 | 255 | |

Table II provides details on each event. As one can see many countries regularly participated in RCC activities. In all, six countries attended all 5 events and the remainder attended 3 or fewer events. Events were evenly spread throughout the year and approximately 20 people attended each event on average. In general, the RCC saw keen demand for a range of program topics and from a variety of countries.

Table II. Summary of Capacity Building Activities for 2006

| Event Name | Date | Total Number of Experts or Participants | Attending Countries (Number of Experts or participants) |
|---|----------------|--|---|
| Regional Capacity Building Seminar on Antitrust Market Definition | February 22-24 | 23 | Australia (1), China (4), Hong Kong China (4), Indonesia (2), Korea (5), Singapore (4), Thailand (1), and Vietnam (2) |
| Regional Cartel Workshop | April 5-7 | 21 | Cambodia (1), China (2), Indonesia (2), Japan (3), Korea (5), Mongolia (1), Singapore (3), Chinese Taipei (1), United States (1), and Vietnam (2) |
| Regional Antitrust Workshop on Bid Rigging and Buyer Power | June 14-16 | 22 | Australia (1), China (2), Indonesia (2), Japan (2), Korea (6), Singapore (3), Chinese Taipei (1), United Kingdom (1) and Vietnam (2) |
| Regional Antitrust Workshop on Abuse of Dominance | October 11-13 | 16 | China (2), European Commission (1), Indonesia (2), Japan (1), Korea (3), Malaysia (1), Singapore (2), Chinese Taipei (1), United States (1) and Vietnam (2) |
| Regional Antitrust Workshop on Competition Cases | December 6-8 | 18 | Australia (1), Cambodia (1), China (2), Indonesia (2), Japan (2), Mongolia (2), Pakistan (1), Singapore (2), Chinese Taipei (3), and Vietnam (2) |

KFTC Seminars

In 2006, the Korea RCC conducted 3 events for the KFTC. In all, 82 officials participated in the Centre’s activities either in the capacity of an expert or as a participant. In the process of delivering those events the RCC delivered 410 person-days of teaching. This represented a very significant expansion relative to prior year activities. In 2005, the RCC provided activities for 38 officials, representing 204 person-days of teaching. This implies that the Centre’s activities for KFTC officials expanded by over 100% on a year over year basis. This was truly a significant accomplishment.

Table III. Summary of KFTC Training Seminar Activities for 2006

| Event Name | Date | Total Number of Experts or Participants | Attending Countries (Number of Experts or participants) |
|--|-----------------|--|--|
| Seminar for KFTC officials on Fair Trade Act Issues | May 8-12 | 26 | Korea (26) |
| Seminar for KFTC Officials on Mergers, Cartels, Consumer Protection and Abuse of Dominance | July 10-14 | 24 | Korea (24) |
| Seminar for KFTC Officials on Analysis Skills Development | September 18-22 | 32 | Korea (32) |

III. Evaluation of RCC Seminars in 2006

As part of its usual business practices, the Korea RCC asks participants to evaluate each seminar. The Centre conducts these evaluations to ensure that its programs are meeting the needs of competition authority officials.

Seminar evaluation results from 2006 indicate that participants found each and every event conducted by the Korea RCC highly useful. When asked to rank the overall usefulness of the seminar, participants ranked the 5 capacity building events in the two highest categories 90% of the time. Participants also found the overall quality of the facilities, including accommodations to be either very high or high 95% of the time. In filling out their evaluations, participants made a number of observations, including, for example, that the course was “fantastic” and that lectures were “really easy to understand and useful”.

As part of the seminar evaluation, the Korea RCC also asks participants and experts what types of programs they would like to see offered in the near future. In general, participants indicated a keen desire to see a wide range of programs from abuse of dominance to market definition focused seminars to cartel and bid rigging. The RCC will take these views into consideration when planning events in 2007.

Annex Description of Individual Events in 2006

Regional Capacity Building Seminar on Antitrust Market Definition

February 22-24

Attending Experts and Participants: Australia, China, Hong Kong China, Indonesia, Korea, Singapore, Thailand, and Vietnam

This seminar provided a rigorous foundation to the variety of ways in which information can be used to define antitrust markets. In the first part of this seminar key issues were thoroughly explored including the role of geographic and product substitution, the hypothetical monopolist test, and obtaining and using information to define a market and test theories of harm. In addition, several case studies were presented and examined from competition authorities in Asia. In the second part of this seminar, participants worked through a case study involving a hypothetical merger of branded products. Interviews were conducted, documents examined, and data analyzed. A defence team prepared their case and there was a trial and a decision at the end of the seminar.

Regional Cartel Workshop

April 5-7

Attending Experts and Participants: Cambodia, China, Indonesia, Japan, Korea, Mongolia, Singapore, Chinese Taipei, United States, and Vietnam

This seminar explored a variety of issues related to anti-cartel enforcement policies and practices. Key focal areas were investigative best practices and techniques, designing optimal sanctions and leniency programs and obtaining empirical estimates of cartel harm. Seminar participants presented several case studies that were investigated by competition authorities.

Seminar for KFTC officials on Fair Trade Act Issues

May 8-12

Attending Experts and Participants: Korea

This seminar explored competition cases involving abuse of market dominance, mergers, and cartels. During those case studies, audit issues were examined as well as merger remedies. A comprehensive review of the Fair Trade Act was undertaken. Optimal sanctions, leniency programs and obtaining empirical estimates of cartel harm were discussed as will bid rigging.

Regional Antitrust Workshop on Bid Rigging and Buyer Power

June 14-16

Attending Experts and Participants: Australia, China, Indonesia, Japan, Korea, Singapore, Chinese Taipei, United Kingdom and Vietnam

This seminar explored competition issues associated with bid rigging and buyer power. Bid rigging is often identified by competition law as illegal *per se* as such agreements rarely have any pro-competitive benefits. Accordingly, nearly all competition agencies see bid rigging as one of their top enforcement priorities. To highlight enforcement issues in this area a number of presentations were made including several case studies. In addition, an action plan aimed at reducing bid rigging was presented by Vietnam and discussed by a panel of experts.

In contrast to bid rigging, competition enforcement matters involving buyer power are relatively more common in Asia than they are in the United States or in Europe. This difference may be due to the historical development of these economies and perhaps as well to differing enforcement practices. Accordingly, a variety of presentations were given that focused on these issues and in particular on separating the illegal use of buyer power from that which is pro-competitive. To aid in this endeavour, a variety of cases were presented to help focus on practical enforcement issues.

**Seminar for KFTC Officials on Mergers, Cartels, Consumer Protection and Abuse of Dominance
July 10-14**

Attending Experts and Participants: Korea

This seminar explored major issues related with the Fair Trade Act and consumer protection. Topics of this seminar included an overview of the Fair Trade Act, abuse of dominant position, merger review, merger remedies, conglomerate group regulations, unfair business practices, cartel regulation, and unfair subcontracting regulations. For consumer protection issues, the seminar dealt with the effects of unfair contract terms, e-commerce & general consumer protection issues.

**Seminar for KFTC Officials on Analysis Skills Development
September 18-22**

Attending Experts and Participants: Korea

This seminar focused on strengthening the capacity of participants in their work at the KFTC. This seminar was intended to provide the participants with opportunities to strengthen their specialty and obtain expertise necessary in their work. In this seminar, participants learned about recent issues involving competition law and policies and analyzed deliberation and ruling cases. They also received intensive, systematic education on their work at the KFTC.

Topics of the seminar included outline of the Fair Trade Act, merger review system and case studies, competition policy in network industries, abuse of market dominance, cartel regulations case studies, regulations on conglomerate groups, unfair business practices, competition policy & consumer protection, regulations on unfair subcontracting practices and related case studies, and finally the surcharge system embodied in the Fair Trade Act.

Regional Antitrust Workshop on Abuse of Dominance

October 11-13

Attending Experts and Participants

China, European Commission, Indonesia, Japan, Korea, Malaysia, Singapore, Chinese Taipei, United States and Vietnam

Competition cases involving abuse of dominance are relatively more common in Asia than they are in the United States and in Europe. This difference may be due to differing historical developments within these economies as well as differing enforcement practices. During this seminar a variety of practices (at times deemed to be abusive) were examined including: exclusive dealing, bundling, tying, fidelity rebates, predation, and refusals to deal. For each of these topics an overview of the key economic issues and analysis steps was presented as well as the types of evidence that can be used to discriminate between conduct that benefits consumers and that which is anticompetitive. To aid this endeavour a variety of cases relating to these topics were presented by competition authorities. Special attention was devoted during the case study portion of the seminar towards the types of evidence relied upon as well as explicit and implicit policies that guide decision makers in such matters.

Regional Antitrust Workshop on Competition Cases

December 6-8

Attending Experts and Participants

Australia, Cambodia, China, Indonesia, Japan, Korea, Mongolia, Pakistan, Singapore, Chinese Taipei, and Vietnam

This seminar explored a variety of competition issues. In the first part of this seminar, officials presented cases that involve mergers, some of which required the competition authority to seek a remedy to a competition concern. Lectures highlighted lessons from prior merger remedies as well as guidelines for obtaining remedies to competition concerns.

In the second part of the seminar, officials will present several cases involving price fixing. During that time officials will also discuss the challenges that new authorities face in bringing such cases as well as best practices for reducing obstruction of justice.

In the third part of this seminar, officials will present several cases where firms were found to have abused their market power. Attention will be devoted towards understanding how competition authorities prove a firm has market power.