

KOREA

Annual Report on consumer issues (2000)

□. Institutional developments

The *Consumer Protection Act*, which has been a basic law in the context of consumer protection since its enactment in 1980, was amended in March 2001 and went into effect in July 2001. From the beginning of 2000, the government has worked on the revision of the act. It contains the enhancement of consumer safety, the specialization of redress system, the reinforcement of the consumer compensation principles and so on.

Online retailers' marketing practices have been regulated by the *Door-to-Door Sales, etc. Act*. As the Act was enacted in 1991, however, when the e-commerce was not known at all in Korea, consumer issues related to e-commerce were not reflected sufficiently. Therefore, the government is considering revision of the Act to adapt it to new developments of e-commerce business model. Like other member countries, the Korean government has established "the Guidelines for Consumer Protection in the Context of Electronic Commerce" in January 2000. It reflected the basic concepts and major contents of the Guidelines prepared by the CCP of OECD in 1999. The object of the guidelines is to protect basic interests of consumers and to activate e-commerce through fostering consumers' confidence. Also, *Standard Contract Terms and Conditions for Electronic Commerce* was announced in January 2000. It regulates internet retailers' obligations with regard to providing contract terms, acquisition of membership, withdrawal of contract, refund and exchange, and privacy protection, etc.

For consumer information, education and complaints redress in electronic commerce, the Korea Consumer Protection Board (KCPB) has been conducting lots of works. The KCPB launched a new organization named the *Cyber Consumer Center (CCC)* in July 2000 for conducting more effectively such projects as monitoring on internet shopping malls' malpractices, studies on legal infrastructure for e-commerce development and surveys on e-commerce businesses. Electronic commerce Mediation Committee consisting of experts in electronic business transactions was established in late March, 2000, at the Korea Institute for Electronic Commerce based on the Electronic Transaction Basic Act.

Also, The government made "the Guidelines for Privacy Protection" in April 2000, which contains the provisions related to the businesses' obligation on the collection, use, provision and management of personal data, dispute resolution mechanism on the privacy protection matters and special provisions for the protection of the under-aged consumers.

□. Physical Protection (Product Safety)

Korea's revised Consumer Protection Act above mentioned is now in place as part of the government's drive to bolster consumer safety. On July 1 2001, the enforcement provisions of the act took effect, which outline procedures for recalling defective and hazardous products and services.

Manufacturers, importers and large-scale distributors who operate shopping areas of more than 3,000 square meters (including department stores and large shopping centers) should report to the government substantial product defects within five days after recognizing the defects. Serious defects that may result in imminent injury are to be reported immediately (orally) to a responsible officer of the government. The distributors are not required to make a report if a

manufacturer or importer has done so previously.

□ Substantial product defects □ which stem from the lack of common safety features include those that caused or could cause death, serious physical injuries or disease (such as a bone fracture, asphyxiation, an electric shock, a burn) that require more than three weeks □ hospitalization, and food poisoning of more than two people. Under the revised act, products or services that violate laws regulating safety standards also fall in the definition of substantial product defects. In case defects resulting in death are not reported, the maximum of a 30 million won fine shall be imposed. Unreported defects leading to serious physical injuries, disease, or food poisoning are subject to the maximum of 20 million won fine. The maximum fine is 10 million won for unreported defects of products that violate safety standards. Whether or not products have defects shall be determined through an objective process of testing, inspection, and investigation conducted by public laboratories and research institutes or the Korea Consumer Protection Board.

When the products prove hazardous, the government can either order a mandatory recall or recommend that the business concerned voluntarily conduct a recall. If the government recommends a recall, the business must notify the government within a week of whether they accept the proposal. Businesses that reject or show disinterest in the recall recommendations without valid cause can be revealed through the media. A company that refuses to accept a mandatory recall order faces a 50 million won fine or its representative is subject to imprisonment of up to three years. If the government issues a mandatory recall, it will be one of two types: the □ general recall order □ or □ imminent recall order. □ After receiving a general recall order, businesses must devise a corrective action plan, report it to the government and implement the appropriate measures. An imminent recall order shall be immediately carried out in order to prevent the reoccurrence of injuries or spread of urgent critical hazard.

On the other hand, to strengthen the management of "Injury Information Reporting System", the KCPB has been operating the "Injury Information Reporting Institutes" which were composed of 175 hospitals, fire stations, police stations and so forth nationwide. In 2000, the KCPB also set up "Consumer Safety Network (CSN)" which enabled the collection and assessment of injury information through on-line.

The Korean government has set regulations for the labeling of GM agricultural products. The agricultural products subject to mandatory labeling are beans, bean sprouts and corns. They should be labeled to indicate whether they are GM products or not, from March, 2001. In addition, from July 2001, in the case of manufactured foods which contain at least one of those three GM agricultural products (beans, bean sprouts and corns) as ingredients, the manufacturers should label the foods as "GM foods" if the GM ingredients are at least the 5th in the order of percentage of the product's composition.

And it became possible that the food companies setting up "hazard analysis and critical control points(HACCP)" facilities receive the tax benefit such as deduction of some portion from the corporation tax from 2001.

□. **Protection of the consumers in e-commerce**

On the basis of the Guidelines for Consumer Protection in the Context of Electronic Commerce established in January 2000, Korean consumer organizations, businesses and government have implemented several measures to promote consumer protection in the e-commerce.

First, Individual businesses and associations seem to recognize the importance of self-regulatory practices in the era of eBusiness. In order to help consumers' informed-decision making and enhance consumers' trust in the e-commerce, two kinds of Internet shopping web sites accreditation mark programs were introduced in 1999. The Korea Association of Information and Technology (KAIT) runs the *i-Safe Seal Program* focusing on privacy protection. In contrast, the *eTRUST Mark Program*, initiated by the Korea Institute for Electronic Commerce (KIEC), evaluates Internet shopping malls on the basis of consumer protection criteria and grants the mark to appropriate applicants. As of late 2000, both marks were granted to almost 100 Internet businesses.

Second, the making and operating of codes of conducts by self-regulatory business organizations has become more important. According to these trends, in January 2000 Korean government has already made the "Standard Contract Terms and Conditions for Electronic Commerce" which can be used voluntarily by e-commerce businesses. It was designed to add major terms and conditions necessary for consumer protection to existing contracts used for cyber mall by the electronic businesses. Korean government has been urging the formulation and operation of detailed codes of conduct for voluntary compliance by businesses engaged in e-commerce, such as keeping personal records confidential, and refraining from misleading advertisements and exaggerated claims. Their widespread dissemination will be helpful to the reduction of business-to-business or business-to-consumer conflicts. In addition to promoting self-regulatory efforts by businesses, surveillance activities by such organizations as Fair Trade Commission and the KCPB have also been strengthened to prevent any fraudulent and misleading practices of businesses.

Third, the rapid expansion of e-commerce will lead to a corresponding rise in disputes among the participants, with potential to severely curtail e-commerce activities. A recent survey conducted by the KCPB shows that about 10% of online shoppers had complaints because of fraudulent or misleading advertising, non-delivery of ordered goods, delayed delivery, refusal of exchange and refund, billing on non-provided services and leakage of personal data etc.. So, good dispute settlement schemes have become essential for consumer protection. Korean government established some special public schemes for consumers_ easy and cheap access instead of resorting to courts. We have ADR systems such as the Consumer Dispute Settlement Commission of Korea Consumer Protection Board (KCPB), the E-commerce Mediation Committee of Korea Institute for Electronic Commerce (KIEC), Privacy Dispute Mediation Committee Of Korea Information Security Agency(KISA).

Fourth, we made domestic rules on jurisdiction and applicable law applied to international B-T-C contracts. Cross-border electronic commerce between consumers and suppliers has been steadily growing. In Korea, a survey recently released reported that 8.4% of online shoppers have experiences of purchasing goods and services from overseas internet shopping stores. Taking into account the EU "Convention on the Law Applicable to Contractual Obligation of 1980, Article 5", Korean government revised the Private International Law, so as to ensure that even the applicable law of a certain country selected by two parties in international B-to-C contracts can not deprive consumer's right given by the mandatory rules of law applied in consumer's habitual residence. It went into effect in July 2001.

Fifth, to prevent Internet frauds, it is important to monitor and take an appropriate action against the malpractices. However, as it is difficult for the law enforcement agency to carry out all these monitoring activities, the government has reinforced private market watchdog programs through the co-operation with the private sector since 2000.

□. Consumer Education and Information

The unique features of electronic commerce make it more difficult for a law enforcement agency to push forward consumer protection through governmental regulation. Therefore, the government has encouraged consumers to promote their empowerment by providing consumer information and running education programs.

Korean government opened websites (<http://www.sobija.go.kr>, <http://www.ecommerce.go.kr>, <http://www.consumer.go.kr>, <http://www.econsumer.or.kr> etc.) for providing useful consumer information including e-commerce. The government has also been striving to raise awareness on the part of e-businesses, which will help formulate self-regulation against unfair practices and induce consumer-oriented business activities based on codes of conduct.

KCPB's consumer education and training programs for electronic commerce have been enlarged, targeting students, governmental officials and suppliers, including main contents of the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce. The KCPB also published leaflets named Electronic Commerce and Consumer Protection and distributed them to both consumer organizations and business associations. In August 2000, the Ministry of Commerce, Industry and Energy (MOCIE) designated the KCPB as a member of the Electronic Commerce Resource Center (ECRC), whose number reached almost 50 nationwide. The government hopes, through this initiative, to reinforce the education, training and consulting on consumer protection for small and medium sized enterprises (SMEs).