



COMPETITION COMMITTEE

**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS
IN KOREA**

2003

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Executive Summary

1. In 2003, the KFTC has made continuous efforts to improve economic efficiency and expand consumer welfare by promoting competition and correcting market structure and functions, which impede the competition.
2. First of all, on the front of any changes of competition laws and policies,
 - Through the amendment of the Fair Franchise Transactions Act, unfair trade practices in the franchise market are expected to be prevented beforehand. In addition, “the Franchise Business Consultant System” was introduced to address any conflicts arising from franchise transactions. Moreover, by amending the Adhesion Contract Act, consumer groups are endowed with the rights to ask for the enactment of standard adhesion contract, thereby spreading such contract and enhancing its efficiency.
 - By amending the Notification on M&A Reporting Guidelines, even the M&A taken place in the overseas needs to be reported. The amendment of the Guidelines for Enforcing the Leniency Program for the Informant Reporting the Improper Concerted Act has increased the upper ceiling of rewards given to the informant.
 - By establishing the 3-Year Market Reform Roadmap, which aims for self-market monitoring system, the KFTC laid the policy foundation to enhance corporate ownership and governance structure of business conglomerates, strengthen transparent and accountable business management and promote market competition. The Roadmap includes information disclosure on corporate ownership and governance structure of business conglomerates, reasonable improvement in the regulation setting the ceiling on total amount of shareholdings of other domestic companies, conversion into the advanced holding company structure, complement of internal and external control systems, and more strict punishment against cartels.
 - For six major industries, which lack competition and are closely related to peoples’ daily lives, the KFTC pursues the Clean Market Project in order to improve any anti-competitive system and practices in a comprehensive way. In addition, by classifying consumers into six different groups, Targeted Consumer Group Initiatives are carried out focusing on correcting unfair trade and improving systems.
3. Second, in terms of performance of competition law enforcement,
 - The KFTC found out 23 cartels in 2003, among which nine cases were faced with 108.6 billion won (about 95 million dollars) of surcharges. In particular, in response to international cartel on vitamins, about 4 billion won (3.5 million dollars) of surcharges were imposed to six foreign companies from five different countries for their anti-competitive behavior.
 - In addition, the KFTC took corrective measures against seven anti-competitive M&A cases.
4. Third, through pre-consultation and regulatory reform on any anti-competitive laws, the KFTC has played an active role as competition advocate.

I. Changes to Competition Laws and Policies

1. Enactment and Enforcement of Competition Laws and Enforcement Decrees

(1) Amendment of the Fair Franchise Transactions Act and Enforcement Decree

5. In order to establish fair trade in the franchise transaction market, the KFTC has enacted and enforced the Fair Franchise Transactions Act since November 2002.

- To effectively prevent any unfair trade practices in the franchise market, expert armed with in-depth knowledge on the Fair Franchise Transactions Act is needed to give any necessary consulting and advice to franchise businesses.
- As franchise businesses often face difficulties in getting any help from lawyers and accountants due to their weak financial situation, it is necessary to nurture the franchise business consultant to give them assistance and help at lower costs. The franchise business consultant is expected to serve his/her role to protect franchise business and contribute to establishment of fair trade in the franchise business market when any contract is signed or conflict occurs between franchiser and franchisee.

6. In order to make the legal grounds to carry out the certificate exam of franchise business consultant, the Fair Franchise Transactions Act was amended. Through this amendment, only the person who passes this exam can work as franchise business consultant since January 2004. To make the legal grounds to refer the certificate exam out to private institution (the Human Resources Development Services of Korea), the Fair Franchise Transactions Enforcement Decree was amended.

(2) Amendment of the Adhesion Contract Act

7. The Adhesion Contract Act was amended in 2003 and enforced since January 2004 whose major contents include expansion of standard adhesion contract and improvement of its efficiency by endowing consumer groups the rights to ask for the enactment of standard adhesion contract.

- By giving consumer groups the rights to suggest standard adhesion contract, it aims to create an environment, in which standard adhesion contract is widely used in any transaction that requires such contract.
- The amended Act enables the Korea Consumer Protection Board and consumer groups to request the enactment of standard adhesion contract of the KFTC. In addition, through the Act, the KFTC can recommend businesses to make standard adhesion contract. If the business concerned rejects such recommendation, the KFTC can directly make the standard adhesion contract.
- Stipulate the standard adhesion marking system and lay the foundation to punish against any false usage of the marking concerned.

2. Other Relevant Measures, including New Guidelines

8. Through the amendment of the Notification on M&A Reporting Guidelines, since July 2003, even the M&A taken place abroad is obliged to report to the KFTC in order to protect competition and consumer rights in domestic market.

- When the total amount of assets or sales of one merging party exceeds 100 billion won (about 87 million dollars) and domestic sales of each merging party surpasses three billion won (about 2.6 million dollars), such M&A cases are conditioned to report to the KFTC.
- By the end of December 2003, 13 cases in total were reported and addressed. Even though there has not been any case, which hampers competition or consumer benefits in domestic market, there was the case violating the guidelines, thereby being charged with administrative fines.

9. Amendment of the Guidelines for Enforcing the Leniency Program for the Informant Reporting the Improper Concerted Act

- In order to actively encourage any report of cartels and submission of related evidence, the KFTC has enforced the system to provide the rewards to the informant since February 2002. In the initial stage, the upper ceiling of rewards that could be given to the informant was set low at 20 million won (about 17,500 dollars). Therefore, the reporting of cartels had fallen short of our expectation. In addition, as the identity of the informant is exposed in the process of receiving the rewards, reporting of cartel was not actively made.
- By amending the Guidelines for Enforcing the Leniency Program for the Informant Reporting the Improper Concerted Act, the upper ceiling of the rewards that can be given to the informant heightened to 100 million won (about 87,300 dollars). Moreover, considering the reluctance of informing the cartels for fear of exposing the identity, the agent person entrusted from original informant, can ask for the payment of rewards on behalf of the informant.

10. Through the amendment of the Notification on the Types of and Criteria for Unfair Business Practices and Abuse of Market-Dominant Position Relating to Newspaper Business, the KFTC pursues the establishment of fair trade rules in the newspaper sales market.

- In order to prevent the unfair trade practice, such as provision of free gifts and papers, which often occurs in the newspaper sales market, the Notification on the newspaper sales was enacted and has been enforced since July 2001. It aims to clearly suggest the types and criteria of unfair trade practice in the newspaper sales market beforehand. During the self-monitoring period done by the Newspaper Association, unfair trade practices surged dramatically and the market environment had become more aggravated. The number of cases imposing fines for breaching the contract had increased more than three folds (3.8 times) compared to that of the first half of 2001.
- By amending the Notification on the Newspaper Sales so that the competition authority can directly address any violating case, the KFTC has enforced it since May 2003. After the amendment of the Notification, the KFTC asked the research institute to identify the transaction environment of newspaper sales market. Based on this, the KFTC has established and carried out the policies to set fair trade in the newspaper sales market.

11. By amending the Notification on Marking the Important Information on Labeling and Advertising, the range to mark important information has been expanded.

- Through the amendment of the Notification, the industry subject to this notification has been expanded to real estate sales and tourism industries. The important information in the real estate sales industry includes whether the business acquires construction license, whether it

has its rights to own the land, the method to manage the real estate sales money, the name of construction company and usage, size and lot number of lands.

- The important information for the tourism industry includes any additional travel costs besides the price suggested by the advertisement, whether the company is insured, and whether the down payment for management is deposited or not.

12. With the enactment of the Guidelines on Reviewing the Labeling and Advertising on Recommendation and Guarantee in July 2003, the KFTC provides accurate market information.

- The types of recommendation and guarantee are to be classified depending on its entity, including those by consumers, experts and any related groups. In accordance with each type, specific review standards will be suggested.

13. Enactment of the Guidelines on Protecting Consumers on Electronic Transactions and etc.

- In order to establish sound fair trade environment and protect consumer rights in electronic and telecommunications transactions, the KFTC enacted the Guidelines on Protecting Consumers on Electronic Transactions and etc. in October 2003. The Guidelines specifically explains the provisions set under the Act on Consumer Protection in Electronic Commerce, etc., which has been enforced since July 2002, and stipulates the things that need to prevent consumer complaints and damage beforehand.
- The Guidelines stipulates several provisions as follows; when the payment is settled through the Internet and etc., the information can be immediately notified to consumers via e-mail, phone, SMS and fax.; when the telecommunication business notifies the monthly usage fee, it specifically marks the payment history on the internet per each business. ; In order to prevent luring consumers by exploiting the mileage program on the internet shopping mall and etc., specific conditions of using the mileage and possible period, terms of expiration, and the compensation standards when the mileage can't be used, need to be posted to easily inform consumers.

3. *The 3-Year Market Reform Roadmap*

14. 3-year Market Reform Roadmap is confirmed and introduced as the implementing program of the new administration's task to establish free and fair market order in December 2003. Based on the result of discussing the public-private joint T/F. the Roadmap laid the step-by-step policy measures to improve corporate governance structure of business conglomerates, strengthen transparent and accountable business management, and enhance market competition.

15. Major contents of the Roadmap includes:

- Disclose Information on corporate ownership and governance structure of business conglomerates: Disclose the share ownership relationship between affiliates under business conglomerates every year, and strengthen the corporate obligation to disclose non-listed and non-registered companies under business conglomerates.
- Improve the Regulation Setting the Ceiling on Total Amount of Shareholding of Other Domestic Companies: By setting the various graduation standards for the regulation (such as the case of low gap between voting rights and cash flow rights, and effective internal control mechanism), it encourages the improvement of the corporate ownership and governance

structure and makes up for the regulations regarding exceptions. This regulation is to prohibit affiliates under business conglomerates with more than 5 trillion won of assets from acquiring shares of other domestic companies surpassing 25% of net assets. It aims to prevent any formation of inflated capital and expansion of control by business conglomerates.

- Encourage the conversion into the advanced holding company structure: Due to web-like shareholdings between affiliates, the current corporate governance has high risk of chain-reaction bankruptcy. Considering this, in order to encourage the conversion into the holding company structure, which has transparent ownership and governance structure and clear relationship between rights and obligations, the regulation was introduced, such as prohibition of shareholdings between affiliates, and reduction of establishment and conversion costs to holding company.
- Compensate the internal and external control system: Pursue the introduction of the class action lawsuit on securities and improvement of the accounting system, review the introduction of electronic voting rights in the shareholders meeting.
- Strengthen the prevention of cartels: Increase the upper ceiling of surcharges from 5% of sales of relevant products to 10%, and enhance the possibility of identifying the cartels by expanding the scope of the person to be exempted from the punishment, who cooperates the investigation, and increasing the compensation to the informant.

16. In order to implement the 3-Year Market Reform Roadmap, the amendment of the competition law is put into force from 2003. When the corporate ownership and governance structure is improved and the self-market monitoring mechanism functions well in three years, the government's direct regulatory methods, including the regulation setting the ceiling on total amount of shareholdings in other domestic companies will be reviewed.

4. *The Clean Market Project and Targeted Consumer Group Initiatives*

(1) Pursuit of the Clean Market Project per each Industry

17. Background of the Project

- Since 2001, the KFTC has selected the industries, which lack competition while having huge influence on consumers, and identified any anti-competitive elements in the overall process including production, distribution, marketing and consumption, thereby carrying out the Clean Market Project to pursue the correction of any illegal behavior and improvement of the system.

18. The target industries for 2003

- Among the sectors which require deregulation due to prevalent government regulations, the KFTC selected 6 industries, including energy, finance, distribution, construction, advertising and professional certificate, for their frequency in legal violation and consumer complaints.

19. 2003 Performance

- Corrective orders against undue collective behavior in the advertising industry, decision and maintenance activities of rewards to professional certificate association, such as architect, undue supportive behavior of the electric power sector, and unfair adhesion contract and

undue advertising in the sales of residence and office complex building, and warning to banks for imposing the same amount of commission.

- Request to improve any restraint on handling banc assurance in the installment finance company, amendment of adhesion contract on non-payment of interest for pre-paid money of electricity fee and standards to set the down payment. In addition, the KFTC came up with the recommendations to simplify the process to issue the beneficiary certificates done by financial trustee contract, and expand the target to manage the bank trustee property. In other words, in order to promote competition and protect consumers, the KFTC selected and has strived to improve 17 regulations.

(2) *Targeted Consumer Group Initiatives*

20. The KFTC has continuously pursued the targeted consumer group initiatives started from 2002, identifying consumer needs and requests and striving to improve them. By selecting the sector in which consumer complaints often occur and addressing consumer complaints on a substantive scale, it tries to identify the things that require any deregulation, and correct unfair practices.

21. By classifying consumers into six different consumer groups in 2003, the KFTC identifies any case of consumer damage and complaint. Furthermore, it has worked to correct any wrongdoings and improve the regulations.

- 6 consumer groups: petty merchants (vending machine), women (women apparel, drinking water), teenager (mileage card), self-driver (car fixing, rent car), urban citizens (corporate brand), students (cartridge, ink, and etc)

22. 2003 Performance

- Corrective measures against 5 companies with unfair adhesion contracts and 2 companies, which had restrained the usage of accumulated mileage points.
- In the vending machine sector, there were corrective measures against 11 companies
- In the women apparel sector, the KFTC issued warnings against 6 companies violating the MRFTA, the Adhesion Contract Act, and the Fair Subcontract Transactions Act.
- In the car fixing and rent car sectors, corrective measures were imposed to 7 companies violating the MRFTA due to undue concerted behavior.

5. *Strengthen International Cooperation*

23. In order to spread the competition culture to developing and transition countries, the KFTC has hold the International Workshop on Competition Policy every year since 1996.

- By integrating the International Workshop on Competition Policy with KOICA's Training Program for Transition Countries in 2003, the new form of workshop was held for four days from April 29th to May 2nd in 2003. 60 experts from 27 countries, including Australia, Germany, Japan, Russia, Ukraine, Romania and others, and 2 international organizations, OECD and WTO, attend the meeting.

- In this workshop, in-depth discussion on “Competition Policy as Economic Development Strategy”, “The Role of Competition Policy in National Monopoly”, and “Relationship between Industrial Policy and Competition Policy” was carried out.

24. II. Furthermore, in cooperation with KOICA, courses on competition law and policies for working level officials in the competition authorities from developing countries were launched.

- In 2003, three additional courses were made, such as training course for public officials in developing countries, transition countries and China, thereby providing Korea’s experience on competition law and policies to 51 public officials in competition authorities from developing countries.

25. On the other hand, pursuing further bilateral cooperation, the KFTC had carried out a negotiation on signing the cooperative agreement with the Mexican competition authority and signed the inter-institutional arrangement in Seoul in April 2004.

- In addition, in September 2003, the KFTC signed the Memorandum for Cooperation with 13 competition authorities, including 11 competition authorities in the Interstate Council for Antimonopoly Policy among CIS Countries, the Romania Competition Council, the Latvia Competition Council, pursuing consolidated cooperation.

II. Enforcement of Competition Laws and Policies

I. Action against Anti-competitive Practices

(1) Summary of Activities

26. In 2003, the KFTC handled 3,537 illegal cases, up by 5.7% from 2002 (3347 cases):

- Cases above the punishment with warning reaches 2702, increased by 2.5% compared to that of 2002 (2635 cases): Even though the cases violating the MRFTA decreases, legal violation in new sectors related to the Act on Consumer Protection in Electronic Transactions and etc. and the Door-to-Door Sales Act increases.
- The number of cases violating the MRFTA was down by 35.2% from that of 2002, reaching 313, while the amount of surcharges was up by 68.2% with 148 billion won (129 million dollars) compared to 88 billion won in 2002 (about 77 million dollars). By finding out the cartels of industries which have close relations with people’s daily lives, such as steel and cement 108.6 billion won of surcharges was imposed against 9 cases.

27. The number of lawsuit against corrective measures by the KFTC in the past five years reaches 234 while that of receiving final judgment reaches 142 (60.7%) and that of impending cases was 92 (39.3%). On the other hand, according to the result of final judgment in the past 3 years, the ratio of winning the case is 68.3%, that of partly winning the case, 11.2%, and that of defeating the case, 17.1%.

Performance of Handling the Case per each type of Behaviour

Type	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Abusive Behavior of Market Dominant Position	1	3	1	2	5	2	-	4	-	1
Practices Violating Regulations restraining M&A ¹⁾	13	23	36	47	29	19	48	45	46	43
Practices violating the Constraint of Economic Concentration	8	3	14	6	11	38	19	16	80	32
Undue Concerted Behavior	19	26	36	22	37	34	47	43	47	23
Prohibition of Collective Behavior of Business Association	56	40	66	53	101	93	117	88	100	91
Unfair Trade Practices ²⁾	337	353	339	509	406	173	121	169	210	123
Undue International Contract	55	40	26	2	1	-	-	-	-	-
Total	489	488	518	641	590	359	352	365	483	313
Undue Labeling and Advertising ³⁾	(142)	(97)	(130)	(232)	(185)	342	310	328	338	558
Unfair Adhesion Contract	73	51	56	152	112	255	56	100	175	114
Unfair Subcontract Transaction	222	387	494	534	582	316	874	3130	1632	1583
Others ⁴⁾	-	-	-	-	2	-	5	11	7	134
Total	784	926	1068	1327	1286	1272	1597	3934	2635	2702

- Note:
- 1) Including the violation of the M&A reporting guidelines.
 - 2) Refusal to deal, elimination of competitors, coercion in dealing, abusing dominant position, transaction based on restrictive conditions, resale price maintenance, and etc.
 - 3) () : Before the introduction of Fair Labeling and Advertising Act, it was the violation of the unfair trade practices under the MRFTA.
 - 4) In 2003, the number of the violation of Electronic Transaction Act was 96, that of Door-to-Door Sales, etc. Act 24, that of Fair Franchise Transaction Act 1, and that of the others 13.

(2) *Significant Cases*

Vitamin International Cartel

28. Outline of the Case

- Multinational companies, manufacturing and selling the raw material vitamin, had agreed to fix prices and sales volume in the global market including Korea from 1989 to 1999

29. Corrective Measure and its Significance

- In April 2003, the KFTC imposed about 4 billion won (about 3.5 million dollars) of surcharges for six companies from Switzerland, Germany, France, Japan and the Netherlands.
- This is the second international cartel case to apply competition law by the KFTC for anti-competitive behavior done by foreign companies located in overseas since the first international cartel case on graphite electrodes in 2002. Two cases clearly reflect the KFTC's strong commitment to fight against anti-competitive practices of foreign businesses giving some damage to domestic companies and consumers.

Price fixing and bid rigging case of steel manufacturers

30. Outline of the Case

- Seven steel manufacturers had increased the steel selling price by similar amount for five times during the same period from February 2002 to April 2003. At first, seven steel manufacturers increased the steel price by different amount ranging from 100 won (about 9 cents) per ton to 1000 won (90cents). After a certain period of time, the steel sales price increased by the same amount.
- Nine steel manufacturers also participated in the bid rigging practices to apply for the bidding with already allocated products through two times of steel purchasing process in 2001 and 2002.

31. Corrective Measure and its Significance

- The KFTC took corrective order against businesses violating the law, ordered them to announce the fact to public, filed them into complaint to the Prosecutors' Office, and imposed 79.9 billion won (about 70 million dollars) in total as surcharges.
- Steel manufacturers, identified this time, had been exposed in the past as well for their price fixing in May 2000. This shows that the same cartel activity repeats in the market. This time, cartel participants differ the amount and time for the price increase, which reflects much smarter and more sophisticated form of cartels by not leaving any evidence in their collective behavior.
- Repetition of same type of cartel by the same businesses is mainly attributed to the fact that the economic benefits arising from the cartel outweigh any disadvantage facing from the punishment against cartel.

- This case is the exemplary one, which stresses the importance of increasing the upper ceiling of surcharges and establishing regular and permanent monitoring mechanism against any concerted behavior in order to effectively control cartels.

Cartel of Cement Manufacturers and Anti-Competitive Behavior of the Korea Cement Industrial Association

32. Outline of the Case

I) Undue concerted behaviour of seven cement manufacturers of obstructing others' business practices (Restraint of cement supply amount against remicon companies related to slag powder business)

- When Aju Industry, a remicon company, tries to pursue the slag powder business, seven cement manufacturers decided to take collective action. Four cement suppliers, which deal with Aju Industry, played a key role in restraining the cement supply for two times (July 15th 2002~July 26th 2002, October 20th 2002 ~November 30th 2002).
- In order to restrict the business activities which confine the product amount of Basic Materials co. in slag powder business to their own consumption, seven cement manufacturers participated in undue concerted behavior collectively limiting the supply of cement to three affiliates of Basic Materials co. producing remicon from March 2003 to September 2003.

II) Anti-Competitive Behaviour of the Korea Cement Industrial Association

- Vice chairman of the Association had met the CEO of Aju Industry for several times from July 2002 to May 2003, pressing them to partly operate or delay the slag powder business. In addition, to Korea Cement, it coaxed it to give up the enlargement of slag cement facilities, thereby obstructing others' business practices.

33. Corrective Measure and its Significance

- The KFTC took corrective orders against businesses and business association violating the law, let them announce the fact to public, filed them into complaint to the Prosecutors' Office and imposed 26 billion won (about 22.7 million dollars) of surcharges in total.
- Eight executives in company and association participated in cartel was filed to the Prosecutors' Office. Among these persons, one was put under restraint and confinement. This is the first case for the Prosecutors' Office to restrain and confine the filed executives for their involvement in cartel.
- By strictly punishing the cartel, which aimed to obstruct the entry into the slag powder market, an alternative product to cement, the KFTC expects this measure could promote competition in the relevant market ahead.

LG Telecom's Coercive Behavior against its Suppliers to subscribe to its PCS Service

34. Outline of the Case

- LG Telecom forced 31 suppliers of its affiliates to subscribe to its PCS service by setting a certain goal (e.g.) sell 250 units per one supplier).

- Such coercive practice was done by coming up with the condition that sluggish membership to its PCS service could lead to the decrease in demands from LG Telecom’s affiliates.

35. Corrective Measure and its Significance

- The KFTC took a prohibition order to LG Telecom and imposed 640 million won (560, 000 dollars) of surcharges.
- Such corrective measure is expected to create a fair competition environment among mobile operators through better price and improved quality and services rather than unfair methods.

2. *Merger and Acquisitions*

(1) *Statistics on Number, Size and Type of Mergers*

36. The number of M&A cases handled by the KFTC as of 2003 reaches 580 down by 2.2% compared to 602 cases in 2002.

- Such reduction is attributed to decreased investment in new business field due to domestic economic recession.
- Among 589 cases, the KFTC took corrective measures against seven anti-competitive M&A cases and imposed administrative fines to 36 cases violating the reporting guidelines.

M&A cases

Year	2000	2001	2002	2003
Total number of Cases	703	644	602	589
Number of anti-competitive M&A cases	4	1	2	7
Number of cases violating the reporting guidelines	42	44	44	36

(4) *Summary of Significant Cases*

Share Acquisition of Hyundai Petrochemical Company by LG Chemical and Honam Petrochemical Corporation

37. By forming the consortium of LG Chemical and Honam Petrochemical, it took over 50% of shares each in Hyundai Petrochemical on June 26th 2003, reporting M&A to the KFTC on July 11th 2003.

38. Through this M&A, the sum of market share of LG Chemical, Honam Petrochemical and Hyundai Petrochemical is falling under the conditions assuming anti-competitiveness in HDPE (High Density Polyethylene), LDPE (Low Density Polyethylene), and PP (Poly Propylene) markets.

- Market share of three merged companies above tops in domestic HDPE market with 45% of share, the sum of top three companies including the merged companies is 79.4% and the relative gap with the second market leader reaches 60%.

- Market share of three companies above ranks the first with 37.6% in the LDPE market, and the sum of top three companies including the merged companies is 87.1%. Their market share is also the first with 43.1% in domestic PP market and the sum of top three companies including the merged companies reaches 70%.

39. The HDPE, LDPE and PP markets are capital incentive equipment industry, costing huge amount of capital in the initial stage. Considering its excessive facilities compared to domestic demands, it is, in effect, difficult for a new comer to enter the market. With this M&A, decreased number of competitors, and co-acquisition and management by rivals increased the risk of cartels.

40. In response to this, the KFTC ordered LG Chemical and Honam Petrochemical to split off overall relevant businesses, including facilities, sales and management in HDPE, LDPE and PP sector, thereby letting them take over the first line (facility 1) and the second line (facility 2) respectively.

Yongsan Chemicals' Share Acquisition of Korea PTG

41. By holding 33.3% of shares in Korea PTG on November 27th 2002, Youngsan Chemicals reported its M&A to the KFTC on December 26th 2002.

42. When Yongsan Chemicals, supplier of MA (Maleic Anhydride) and Korea PTG, MA consumer, are combined, they trigger market containment effects in vertical terms, such as supply and demand of raw materials.

- Yongsan Chemicals is the monopolistic business with largest market share (66.1%) in domestic MA market while Korea PTG is estimated to command 70.7% of share in MA demands with its completion of 1,4-BDO (Butanediol) production capacity. Therefore, with this M&A, market share both in terms of supply and demand of raw material will fall into the conditions of market containment under the M&A review standards.

43. When two companies, largest MA consumer and supplier each in domestic market, are combined, entry barrier in the MA market as well as in 1,4 BDO market will be established in the mid and long term.

- As a consequence, in order to get stable supply of MA, new entrant of 1,4 BDO market has no choice but to participate in the MA market at the same time and vice versa as well.

44. The KFTC took corrective measure to establish and manage “the consultation body” consisting of MA producer, seller, consumer, and independent supervisor in order to prohibit exclusive mutual trade in producing and purchasing MA.

III. The Roles of Competition Authorities in the Formulation and Implementation of Other Policies

1. Pre-Consultation on Any Anti-Competitive Provisions in the Laws

45. The KFTC conducts pre-consultation on any anti-competitiveness under the Laws controlled by other ministries pursuant to Article 63 of the Monopoly Regulation and Fair Trade Act (MRFTA).

- When other ministries enact or amend their laws, they need to ask the KFTC to review whether there is any anti-competitiveness in their laws. If there is any anti-competitive element, such as cartels and regulations on market entry and prices, the KFTC raises any opinion and suggestion. If necessary, the competition authority submits them to the

Regulatory Reform Committee, the Economic Minister Meeting, the Vice-ministerial Meeting and the State Council.

46. The number of Acts pre-consulted by the KFTC in 2003 is 361, down by 5.2% from 2002.
- Such decrease in pre-consultation is due to reduced enactment and amendment of laws with stabilization of structural reform started since 1998.
 - The KFTC suggested its opinions on 47 cases (13.0%) among 361 cases, ultimately reflecting its views on 25 cases. Among 22 remaining cases, consultation is now under way for 21 cases for its incompleteness of enactment and amendment. For one case, the KFTC's opinion is not accepted.

Annual suggestion of its opinion and the cases of real reflection

Year	Number of consultation	Number of the KFTC's suggestion	Reflected	Un-reflected	Under way
2003	361	47(13.0%)	25(53.2%)	1(2.1%)	21(44.9%)
2002	381	36(9.4%)	29(80.6%)	7(19.4%)	-
2001	432	53(12.3%)	47(88.7%)	6(11.3%)	-
2000	481	60(12.5%)	51(85.0%)	9(15.0%)	-
1999	561	72(12.8%)	64(88.9%)	8(11.1%)	-

47. Major Reflected Cases
- With the enactment of the Mass Transportation Promotion Act, the Ministry of Construction and Transportation tried to let the Minister of Construction and Transportation have an authority to change the transportation fare. However, by accepting the KFTC's opinion, the provision concerned was deleted. Transportation fare should be, in principle, decided by relevant businesses. Therefore, the Minister's requirement to change the fare is likely to lead to the government's excessive intervention into setting the fare. In addition, such behavior is in contrast with the current trend to liberalize the public fee. Furthermore, under the Enforcement Decree on Mass Transportation Business, local government is entrusted with the rights to set the transportation fare. Considering this, the provision mentioned above can excessively restrain the autonomy of local government.
 - Through the amendment of the Indirect Investment Asset Management Act, the Ministry of Finance and Economy was about to introduce the grounding provision, which admits collective behavior of asset management companies related to providing underwriting company or executives and staffs in the underwriter with any goods and convenience in compensation for selling the fund. However, by taking the opinions of the KFTC, such efforts came to fail. As collective behavior is legally acknowledged in that case, the competition agency made a strong opposition against it.

2. Pursuit of Regulatory Reform

48. Since its establishment, the KFTC has been leading the efforts to improve various Acts and regulations, which restrain market competition.
- Stressing the necessity of deregulation for the first time in the government, the KFTC had managed "the Economic Regulation Reform Committee" from 1997 to 1998, overseeing the

regulatory reform. Since 1998, the KFTC participated in the Regulatory Reform Committee as *ex officio* commissioner, working to inspire competition-oriented spirit to the regulatory reform process.

49. Result of Anti-Competitive Regulatory Reform in 2003

- The KFTC tried to improve the market situation per each industry and identified 174 anti-competitive regulations, which fundamentally restrain economic activities, such as price fixing, cartel, restraint on market entry, and restricted business activities.
- Examples of anti-competitive regulations: i) price regulation (setting the upper ceiling of usage commission on credit information, reporting the brokerage fee for brokers who help to migrate to overseas); ii) restraint on market entry (prohibition of establishing medical institutions by profit-oriented organization, the system to appoint the industries only for small and medium sized companies; and iii) restraint of undue business activities (the regulation to compulsorily set the broadcasting program per each sector, and the regulation to adjust the refinement ability to streamline the oil refining industry and others)
- In order to review the propriety of 174 anti-competitive regulations and improve them, the KFTC asked the Korea Society for Regulatory Studies to analyze and study those regulations.
- As a result, the Korea Society for Regulatory Studies suggested abolition and any improvement opinions to 152 regulations. The KFTC submitted 20 anti-competitive regulations among them to the Regulatory Reform Committee, asking for the improvement.

IV. Resources of Competition Authorities

50. With growing importance on competition policy in 1990s, the number of staffs and budget had steadily increased. However, after 1997, the number has been stabilized to 400.

Number of the KFTC Staffs and Budget Spending Amount

	Number of Staffs	Budget Spending Amount
2003	416	264
2002	416	246
2001	416	220
2000	401	193
1999	402	172
1998	410	160
1997	403	184

51. Among 479 staffs actually working in the KFTC, those with more than master's degree are 73 (15%).

- In terms of their specialty, 88 have degrees in economics (18%), 62 in law (13%), 47 in business administration (10%) and 69 in public administration (14%). There are also some experts with professional certificate, such as 24 lawyers, including 7 U.S. lawyers, and 3 accountants, including one with AICPA.

Current Composition of the KFTC Personnel

(unit : person)

Year	Persons in charge of the Enforcement of the FTA or Other Related Works															Technical Official	Total	
	Persons with Undergraduate or Higher Education																	Others
	Economics			Law			Business Administration			Public Administration			Others					
	Ph. D.	M. A.	B. A.	Ph. D.	M. A.	B. A.	Ph. D.	M. A.	B. A.	Ph. D.	M. A.	B. A.	Ph. D.	M. A.	B. A.			
As of Sep. 6, 2004	11	19	58	1	10	56	-	7	40	-	17	52	-	5	103	30	67	479

52. The KFTC is making further efforts to secure more experts in the organization. By encouraging studying in overseas through the government's financial support, the KFTC staffs are backed to acquire masters and doctorate degree in economics or law in overseas. In particular, the competition agency expanded the recruitment of personnel with professional certificates, such as lawyers and accountants.

V. References to New Reports and Studies on Competition Policy Issues

1. LIM Young-Jae, Develop the evaluation index and study on assessment measure for the pursuit of market reform: September 2003, The Korea Development Institute
2. Studies on propriety and reasonable improvement of anti-competitive regulations: November 2003, The Korea Society for Regulatory Studies
3. Written survey on the current situation of the franchise business transactions: July 2003, Hankook Research
4. LEE Bong-eui, Review the enactment of guidelines for business on general unfair trade practices: November 2003, Kyungpook National University
5. KO Dong-su, Research on corrective measures of anti-competitive practices related to the tasks entrusted by the government: December 2003, the Korea Institute for Industrial Economics and Trade
6. KWON Oh-Seung, Research on improvement measures of surcharges system: November 2003, Seoul National University
7. SONG Kyung-sun, Develop the economic analysis method through the research on M&A cases in the U.S.: November 2003, LECG Korea
8. LEE Jae-Hyung, Research and announcement of monopolistic market structure: December 2003, the Korea Development Institute
9. KIM Min-Jeong, Develop consumer education program related to e-commerce: December 2003, Keimyung University
10. AHN Young-ok, Research on the direction to amend the Consumer Protection on Electronic Transactions and etc. Act: October 2003, Korea Institute of Technology and Law

11. LEE Il-kyun, Development on Consumer Protection Guidelines on Special Sales Sector: Myongji University
12. KIM Sung-cheon, Research on consumer damage in the continuous transactions and membership transactions: November 2003, the Korea Consumer Protection Board