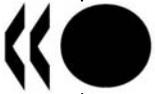


Unclassified

DAF/COMP(2005)32/29



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

11-Oct-2005

English text only

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

DAF/COMP(2005)32/29  
Unclassified

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

-- 2004 --

*This report is submitted by the Korean Delegation to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 19-20 October 2005.*

JT00191531

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## **Executive Summary**

1. In 2004, the KFTC made continuous efforts to improve economic efficiency and expand consumer welfare by promoting competition and correcting market structure and functions, which impede the competition.

## **Law and Policies**

2. The Monopoly Regulation and Fair Trade Act (MRFTA) was revised and related institutions were improved in order to promote market competition, improve corporate ownership and governance structure of large business groups and strengthen monitoring function of market participants.

3. The ceiling of surcharge imposed on cartels has been raised from 5% to 10% of related turnover. With improved M&A review system, procedural burdens on companies are eased while substantial review is strengthened. The legal ground was laid to apply the MRFTA to unfair business practices of foreign companies.

4. The Unfair Business Practice Review Guidelines have been enacted, which provide specific and clear standards for judging whether a conduct falls under any of the 24 types of unfair practices.

5. Measures regarding large business groups have been changed in more reasonable way. Graduation standards of the restriction on total amount of shareholding in other domestic company have been introduced. Voting rights for the shares of affiliates that financial companies hold have been reduced. The establishment of and conversion into a holding company has been facilitated. The holding company system has been improved to enhance transparency.

6. To strengthen monitoring function of market participants, provisions related to claims for damages have been improved, and the Informant Reward System has been implemented. Efforts are being made to facilitate the Compliance Program.

7. The Business Review, under which companies voluntarily apply for the KFTC's review on whether a business act violated the competition law before engaging in the act, has been introduced, enhancing convenience and predictability of business activities.

## **Cartels & Mergers**

8. In 2004, the KFTC handled a total of 3,942 cases and imposed surcharges of 35.8 billion won (about 360,000 dollars). The KFTC detected 35 cartels, among which 12 cases were faced with 28.7 billion won (about 290,000 dollars) of surcharges, and ordered corrective measures on six anti-competitive M&A cases.

## **Competition Advocacy**

9. 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**

### **I.1 Enactment and Amendment of Competition Laws and Enforcement Decrees**

(1) *Amendment of Monopoly Regulation and Fair Trade Act  
(promulgated on December 31, 2004, enforced on April 1, 2005)*

10. Content of the amendment can be summed up as promoting market competition, improvement of corporate ownership and governance structure and enhancement of fairness and transparency of large business groups, and strengthening of monitoring function of market participants and market self-regulation.

#### *For Promoting Competition*

11. To enhance cartel deterrence, the surcharge ceiling has been raised to 10% from 5% of related turnover. This serves as a disincentive for cartel.

12. To ease procedural burdens on companies and prevent adverse effects of monopoly, the M&A Review system has been improved to strengthen substantial reviews.

- A new provision was introduced, stipulating that if an acquired company is a small company with less than three billion won in total assets and sales, it will be exempted from notification requirement.
- Post-merger notification requirement has been changed into pre-merger notification for M&As through share acquisition by large companies.
- In the case of anti-competitive and complicated M&As, the review extension period can be prolonged up to 90 days from the previous 60 days for in-depth review.

13. Legal grounds were included for applying Korea's competition law to unfair business practices of foreign firms, though carried out overseas, if those practices affect domestic market.

#### *For Improving Corporate Ownership and Governance Structure*

14. Measures regarding large business groups have been changed in a reasonable way to improve their corporate ownership and governance structure and enhance fairness and transparency.

- To encourage improvement in corporate ownership and governance structure as well as transparent management, four graduation standards<sup>1</sup> of restriction on total amount of shareholding in other domestic companies have been implemented, and the scope of exception and exemption from the restriction has been expanded.
- Voting rights of financial companies under large business groups whose amount of assets is two trillion won or more for the shares in other affiliates will be curtailed gradually to 15% by 2008 from the current 30% (a 5% reduction each year).

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<sup>1</sup>  companies with well-functioning internal monitoring system,  subsidiaries of holding company,  business groups with simple shareholding structure and having affiliates below a certain level, and  business groups with a small gap between ownership and control

- The establishment and conversion into a holding company, which makes ownership structure of business groups simpler and more transparent, has become easier. In the meantime, the holding company system has been improved to enhance transparency.
- The grace period given when a company converts itself into a holding company for meeting debt ratio requirement (100%) has been extended to two years (previously, one year), and all types of conversion are given the grace period. The mandatory ratio of share ownership in unlisted joint venture subsidiary has been reduced from 50% to 30%. A ban on cross-shareholding among subsidiaries was included to increase transparency, and a new requirement of share ownership by subsidiaries in sub-subsidiaries was newly introduced. Holding companies have been prohibited from owning shares of non-affiliates, in excess of 5%.
- The right to request financial transaction information, which expired in February 2004, will be reintroduced for the three-year period. Strong requirements for exercise of the right were set. For example, the request should be decided upon by the KFTC. And criminal punishment will be imposed against those request such information without meeting the requirements.
- Disclosure obligation for unlisted and unregistered firms has been strengthened to address information asymmetry in the market and reinforce transparency.

*For Strengthening of Monitoring Function of Market Participants and Self-regulation*

15. Monitoring function of market participants has been strengthened and protection of the rights of consumers and businesses harmed by violations has been reinforced.

16. Provision related to claims for damages has been improved so that victims of law violations can file a lawsuit more easily. Provision limiting claims for damages was deleted in order for victims to file a claim for compensation regardless of KFTC's corrective measures. A new provision was included which allows the court to acknowledge the amount of damage. In result, it has become easier for a violation victim, who previously found it difficult to be redressed due to the difficulty in verifying the amount of damage, to file a claim for damages.

17. The Informant Reward System was introduced to promote fair competition among companies and deter unfair business practices. The system is applied to five types of unfair practices: cartels, prohibited activities of enterprisers organization, undue supporting behaviour, violations of the notification on newspaper sales business and violations of the notification on large retail store business.

(2) *Amendment of Enforcement Decree of Monopoly Regulation and Fair Trade Act (promulgated and enforced on April 1, 2004)*

18. Given increasing influence of surcharges on business management, surcharge provisions were improved to enhance objectivity and transparency of surcharge calculation. Surcharges are imposed on behaviour which hampers free and fair competition in the market, behaviour which has a huge influence on consumers and cases where undue profits take place due to violation.

19. When it is decided to impose surcharges, the amount will be calculated in accordance with four steps.

- The first step is calculation of basic surcharge. In this step, violating behaviour is classified into one of three categories according to its severity, and the amount of basic surcharge is calculated by multiplying the standard rate of the category by the amount of turnover related to the violation.
- The second step is calculation of obligatory adjusting surcharge. In this step, the basic surcharge should be adjusted based on the period, frequency and undue profits of the behaviour.
- The third step is calculation of discretionarily adjusting surcharge. In this step, the obligatory adjusting surcharge is added or deducted, taking into account the purpose and faults of the violators.
- The last step is calculation of final surcharge, In this step, the amount of final surcharge is produced by reducing or deducting the discretionarily adjusting surcharge after considering various matters not included in the first three steps.

## ***1.2 Enactment and Amendment of Major Guidelines and Notifications***

### ***(1) Enactment of Unfair Business Practice Review Guideline (enforced on January 1, 2005)***

20. The Unfair Trade Practice Review Guideline was set forth to achieve consistency of law enforcement and increase predictability of companies by providing specific and clear standards for reviewing 24 types of unfair trade practices stated in the MRFTA (Article 23) and its Enforcement Decree (Appendix). The Guideline includes review principles, specific review standards, cases of violation and scope of review exemption.

21. With respect to the general principles for reviewing illegality, the Guideline divides “likelihood of impeding fair trade” stipulated in Article 23 (1) of the MRFTA into “competition-restrictiveness” and unfairness”, defines the two terms and classifies the 24 types of unfair business practices as “acts subject to review focused on competition-restrictiveness” and “acts subject to review focused on unfairness”.<sup>2</sup>

22. For the acts subject to review focused on competition-restrictiveness, the safety zone is stipulated, and a violating company whose market share is less than ten percent can be exempted from the illegality review. For each of the 24 types, the Guidelines stipulates in detail why it is banned, specific activities, matters considered in judging illegality and examples of violating acts<sup>3</sup>. The Guidelines is expected to raise the quality of review to a higher level, increase consistency and help companies to understand the illegality standards of unfair business practices more easily and clearly and to comply with the law and enforcement decree.

### ***(2) Enactment of Guideline on Business Review Application (enforced on December 1, 2004)***

23. In order to enhance predictability and convenience of business activities, the Business Review was introduced, and the Guideline on Business Review Application was announced. Under the Business

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<sup>2</sup>

- acts subject to review focused on competition-restrictiveness: refusal to deal, discriminatory treatment, elimination of competitors and transaction based upon restrictive conditions
- acts subject to review focused on unfairness: unfair luring of customers, coercion in dealing, interference in business activities of other enterprises and abusing dominant position

<sup>3</sup> Refer to <http://ftc.go.kr/data/hwp/2001~15.doc>

Review, before engaging in a business act, companies ask the KFTC to conduct a review on whether such act violates competition laws, and the KFTC provides the review result within 30 days after application.

24. Any company or enterprisers organization can apply for a review regarding an act governed by any of four laws: the MRFTA, the Fair Franchise Transactions Act, the Fair Labelling and Advertising Act and the Fair Subcontract Transactions Act. Applicants can ask for a review only on a specific and individual act they are going to do. The review results are an official view of the KFTC and, therefore, the KFTC will not take legal measures afterward against the act that the KFTC decided to be legal.

(3) *Amendment of Rules on Case Handling Process (enforced on November 1, 2004)*

25. The Rules on meeting and case handling process, etc. of the KFTC was revised to improve the case handling process to befit the functions of the KFTC as a quasi-judicial agency. In the past, limited scope of evidence was available to the defendant. With the amendment of the rules, the defendant can have access to and make a copy of all evidential material, so that they can fully exercise their right to defend. To guarantee a fair deliberation and provide the defendant an opportunity to fully state their opinions, the Deliberation Continuation was introduced. For a complicated cases with many issues, deliberations are held in several rounds.

(4) *Amendment of Guideline on Surcharges (enforced April 1, 2004)*

26. As revised MRFTA Enforcement Decree provisions regarding surcharges came into force on April 1, 2004, the notification on surcharges were revised. The revised Guideline prescribes standards for deciding whether to impose a surcharge, standards for calculating the amount of related turnover, and standards and methods for each of the four steps stipulated in the MRFTA Enforcement Decree:

- with respect to basic surcharge calculation, the amount is set depending on the severity of each type of violation.
- with respect to obligatory adjusting surcharge calculation, the Guideline lays down how to determine the period and frequency of the violation and the amount of unfair profits gained, and sets forth the amount of addition or deduction.
- with respect to discretionary adjusting surcharge calculation, the amount of addition or deduction is set as well as reasons for adding or deducting surcharges, such as whether the violation was corrected, whether the violator refused or obstructed investigations.
- with respect to final surcharge calculation, the Guideline prescribes the amount and standards of reduction based on other factors not considered in the first three steps.

(5) *Amendment of Notification on Large Retail Store Business (enforced on April 1, 2004)*

27. The KFTC has enforced the Notification on Types of and Criteria for Special Unfair Business Practices Relating to Large Retail Store Business (hereinafter referred to as “the Notification on Large Retail Store Business”) to regulate the abusive behaviour of dominant position by large retailers, such as department stores and discount stores, over their suppliers.

28. As the number of TV home shopping companies is increasing, there is a growing need for regulation on their abuse of dominant position. In response, the TV home shopping business was added to the businesses subject to the regulation under the Notification on large retail store business, and relevant provisions were revised.

(6) *Enactment of Notification on Multilevel Sales (enforced on March 23, 2004)*

29. According to Article 13(4) of the Door-to-Door Sales, etc. Act and Article 20 of its Enforcement Decree, the KFTC may disclose information on a multilevel distributor, which may have an influence on the choice of consumers or multilevel salespersons. This aims to protect the right of consumers or multilevel salespersons to make a reasonable choice and prevent harm caused by a lack of information.

30. To set forth the scope of information disclosed by the KFTC, the Notification on Information Disclosure on Multilevel Distributors was announced. The scope of information includes the amount of sales, the amount of allowance paid to salespersons, the number of salespersons, information on consumer complaint handling, information on company history and credit ratings of multilevel distributors.

**I.3 *Strengthening of Monitoring and Self-Regulation by Market Participants***

31. The Korean government has so far focused on establishing a market order through law enforcement. However, the government's direct regulation has its limits in terms of enforcement resources such as human resources. And law enforcement that depends on ex-post corrective measures is not enough for immediate relief for consumer damage. So the KFTC has made efforts to strengthen monitoring function of market participants. The has improved the Claims for Damages system, introduced the Informant Reward System and tried hard to facilitate the Compliance Program .

*Improving the Claims for Damages*

32. Private lawsuits including claims for damages not only protect the rights of consumers and businesses, but they also play a role in deterring law violations since they encourage the public to monitor unfair practices. Victims of law violations are allowed to file a claim for compensation regardless of KFTC's corrective measures. Recognizing that it is difficult to file a claim because the amount of damage is hard to prove, the KFTC has implemented a system in which the court acknowledges the amount of damage. In the mid- to long term, the KFTC plans to introduce a system allowing the victims to request the court issue a discontinuance order against an act violating the MRFTA.

*Informant Reward System*

33. To encourage active monitoring by market participants including consumers, the Informant Reward System was introduced. Those who report any of five types of violations such as cartels will be paid reward money. This is expected to lead to early establishment of a fair trade culture among companies and prevention of unfair transactions.

*Compliance Program*

34. The KFTC has put emphasis on facilitating the compliance program launched in 2001. To help the compliance program take root as a critical factor in corporate cultures or corporate management, the KFTC has held seminars and other events to present exemplary cases of companies which successfully operate the compliance program. The number of companies operating the compliance program has increased as following; 12 (2001) → 56 (2002) → 101 (2003) → 193 (2004)

**I.4 *Enhancement of International Cooperation***

35. By successfully hosting the Third Annual Conference of the ICN in Seoul from April 21 through April 22, 2004, where 260 delegates from 49 competition authorities participated, the KFTC contributed to promotion of cooperation among competition authorities around the world and convergence of competition laws and policies.

36. Meanwhile, the KFTC has sought to reinforce bilateral cooperation with an agency-to-agency arrangement with Mexico's competition authority signed in April 2004 and an MOU with the EU competition authority in October 2004. With respect to free trade agreements, the area of competition was included and pursued to the level of a bilateral agreement. The Korea-Chile FTA, the first FTA for Korea, entered into force on April 1, 2004, and the Korea-Singapore FTA was, in effect, concluded in November 2004.

37. The OECD-Korea Regional Centre for Competition was established in Seoul on April 19, 2004 to provide consultation concerning introduction of competition laws as well as educational and training programs for competition law enforcers in Asia. The Centre was launched in collaboration between the OECD and the KFTC, and is the first of its kind in the world. Through the centre, the KFTC has run technical assistance programs on competition laws and policies, including a TA program for four Central Asia countries and Indonesia in 2004. By doing so, the KFTC fulfilled its role in promoting competition policy cooperation between developed countries and developing countries in Asia.

#### *Enforcement of Competition Laws and Policies*

##### 1. Correction of Cartels and Unfair Trade Practices

###### (1) Summary of Activities

38. In 2004, the KFTC handled 3,942 illegal cases, up by 11.4 percent from 2003 (3,537 cases). The number of cases with punishment heavier than a warning reached 2,988, a 9.5% increase compared to 2003 (2,702 cases). Even though the number of cases violating the MRFTA decreased, violations in new sectors related to the Act on Consumer Protection in Electronic Commerce, etc. and the Door-to-Door Sales Act increased.

39. The number of cases violating the MRFTA was 580, down by 85% from that of 2003 (313 cases), while the amount of surcharges reached 35.8 billion won (about 350,000 dollars), down by 75.8 % from 148 billion won (about 14.8 million dollars) in 2003.

The number of lawsuits filed against KFTC's corrective measures in 2004 increased 21.7 % from 46 in 2003 to be 56 while the number of appeals was 60, up 50% from 40 in 2003.

## &lt;Performance of Handling the Case per Each Type of Behaviour&gt;

(cases with punishment heavier than a warning)

Type	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
<b>Abuse of Dominance</b>	3	1	2	5	2	-	4	-	1	-
<b>Violations of Regulations restraining M&amp;A</b>	23	36	47	29	19	48	45	46	43	36
<b>Violations of Constraint of Economic Concentration</b>	3	14	6	11	38	19	16	80	32	149
<i>Undue Concerted Behaviour</i>	26	36	22	37	34	47	43	47	23	35
<b>Prohibited Activities of Enterprisers Organization</b>	40	66	53	101	93	117	88	100	91	62
<b>Unfair Trade Practices</b>	353	339	509	406	173	121	169	210	123	298
<b>Undue International Contract</b>	40	26	2	1	-	-	-	-	-	-
<b>Sub Total</b>	488	518	641	590	359	352	365	483	313	580
<b>Undue Labelling and Advertising</b>	(97)	(130)	(232)	(185)	342	310	328	338	558	436
<b>Unfair Adhesion Contract</b>	51	56	152	112	255	56	100	175	114	79
<b>Unfair Subcontract Transaction</b>	387	494	534	582	316	874	3,130	1,632	1,583	1,649
<b>Others</b>	-	-	-	2	-	5	11	7	134	244
<b>Total</b>	926	1,068	1,327	1,286	1,272	1,597	3,934	2,635	2,702	2,988

## (2) Significant Cases

## Cartel of Apartment Sales Prices

40. Six construction companies, which sold new apartments to individuals before actual construction in Jukjeon land development area in the city of Yongin, agreed to set the price per pyong (about 3.3㎡) at more than 6.5 million won and sold 2,635 units from September 15 to September 20, 2001. In a similar way, ten construction companies in Dongbaek land development area in Yongin also agreed to set the price per pyong at around 7 million won and decide the payment method to be post-interest payment. The companies sold 8,544 units between July 25 and August 5, 2003.

41. The KFTC imposed a total of 25.335 billion won in surcharge and brought a charge with the prosecution on July 31, 2004. This is the first case of apartment sales price cartel to which the MRFTC was applied. The case drew much attention not only from the media, but also from the public, because for many Koreans, to own their house is one of most important goals of economic activities.

## Car Battery Cartel

42. Four car battery manufacturers had agreed to raise the ex-factory prices three times since May 2003, and carried out such agreement. During the investigation process, the Leniency Program was actively used to facilitate investigations and break the cartel agreement entirely. The KFTC had obtained evidence on the first round agreement on price increase, but not the evidence on the second and third round agreements. After each head of KFTC investigation teams dispatched to the four companies explained that the only survival strategy was to turn to the Leniency Program. One of the four conspirator companies confessed and provided evidentiary materials. The other three companies, which later came to know the fact, scrambled to apply for leniency. For the first confessor, the KFTC granted exemption from surcharges

on the second and third cartel agreements and, for the rest three companies, a 20-percent reduction in surcharges on the second and third cartel agreements.

2. Mergers and Acquisitions

(1) Statistics on Number, Size and Types of Mergers

43. The number of M&A cases handled by the KFTC in 2004 was 749, up by 27.2% from 589 in 2003. Such increase is attributed to companies' active efforts for restructuring and diversification of business despite unclear signs of economic recovery. Among the 749 cases, the KFTC ordered corrective measures against six anti-competitive M&A cases and imposed fines on 29 cases for violating the notification guidelines.

<M&A cases>

Year	(unit: cases)			
	2001	2002	2003	2004
Total number of cases handled	644	602	589	749
Number of anti-competitive M&A cases	1	2	7	6
Number of cases violating the notification guidelines	44	44	36	29

(2) Significant Cases

Acquisition of Young Chang by Samick Musical Instrument and Triopines

44. Samick Musical Instrument, a piano manufacturer, became the largest shareholder in Young Chang on March 12, 2004 by acquiring 48.58% of shares in Young Chang with its affiliate, Triopines, and filed a notification on March 26, 2004.

45. The M&A caused concern over competition restriction in the three relevant markets, grand piano (GP), upright piano (UP) and digital piano (DP) markets. The post-merger market share was 64.6 percent for GP, 92.0 percent for UP and 63.4 percent for DP, which met the conditions for presuming anti-competitiveness under the MRFTA.

46. Considering that each relevant market had been, in effect, dominated by the acquiring and acquired companies, it was highly likely that the merger would lead to monopolization and undermine competition in the market. With regard to competition-restrictive practices, the possibility existed that the post-merger company might pursue monopolistic profits by setting market prices, that there were few incentives to minimize costs, and that the merger might exclude foreign competitors.

47. On the other hand, the likelihood of new entries was low due to high cost and difficulty in securing raw materials. And it was not clear whether the level of foreign competition in the market would reach a considerable level, even though foreign competition was increasing in the market. The KFTC ordered Samick and its affiliate to dispose of all the shares in Young Chang to a third party and to sell all the mechanical equipments and facilities to Young Chang.

## Acquisition of Hanbo Iron & Steel by INI Steel and Hyundai Hysco

48. INI Steel and Hyundai Hysco formed a consortium to sign a contract with Hanbo Iron & Steel on business takeover on July 31, 2004, and file a notification on August 2, 2004.

49. The merger caused concerns over competition restriction in the steel bar market among relevant markets including steel bar, hot coil and cold rolled steel markets. After the merger between the No.1 and No.4 steel makers, market share of post-merger company would be 38 percent compared to the combined market share of 71.4 percent of the top three steel makers. This meant the level of market concentration rose.

50. Considering that the steel bar market is seller's market where suppliers are in the upper hand and that substitute purchase is hard to make due to almost 100-percent capacity utilization rate of suppliers, there was a possibility of price increase by the post-merger company alone.

51. In addition, because the steel industry was susceptible to cartel conduct and because there had been many cartel conducts led by INI Steel, the possibility of price increase through collusion was high. New entries were difficult to make, and the level of foreign competition in the market was low. It was judged that competition-restrictiveness existed on the ground of all the factors aforementioned.

52. The KFTC ordered the acquiring party to sell its steel bar plant in Pohang, which can produce 300,000 tons of steel bars a year, to a third party.

### **III. The Role of Competition Authorities in the Formulation and Implementation of Other Policies**

#### ***III.1 Pre-Consultation of Anti-Competitive Acts***

53. 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.

54. The number of pre-consultations in 2004 is 430, up by 16% from 2003. Such increase is attributed to rising awareness and consensus on the need for pre-consultation on anti-competitive laws within government agencies. The KFTC suggested its opinions on 44 cases (10.2%) out of 430 cases, ultimately reflecting its views on 33 cases (75%). Among the remaining 11 cases, for 7 cases in which enactment or amendment of related laws was not completed at that time, consultation is now under way. For the rest four cases, the KFTC's opinion was not accepted.

## &lt;Annual suggestion of its opinion and the cases of real reflection&gt;

(unit: cases)

Year	Number of consultation	Number of the KFTC's suggestion	Reflected	Un-reflected	Under way
2004	430	44(10.2%)	33(75%)	4(9.1%)	7(15.9%)
2003	361	46(12.7%)	37(80.4%)	9(19.6%)	-
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%)	-

## Major Reflected Cases

55. While amending the Aviation Act, the Ministry of Construction and Transportation (MCT) proposed a provision stipulating that the MRFTA shall not apply to a partnership agreement among aircraft operators, which are authorized by Minister of Construction and Transportation. The KFTC proposed its opinion and the MCT accepted to revise the provision as following; When the Minister of Construction and Transportation authorizes a joint operation agreement or a partnership contract among airline companies, he shall seek, in advance, consultation with the Fair Trade Commission on competition-restrictiveness. In addition, the KFTC made a suggestion to delete a provision stipulating that a partnership agreement among airline companies shall not be governed by the MRFTA. The Ministry accepted the opinion.

56. While amending the Broadcasting Act, the Korean Broadcasting Commission proposed that terrestrial DMB broadcasting companies should operate channels providing all of the television, radio, data broadcasting services. However, considering growing uncertainty in the DMB market caused by the development of substitute technologies, the KFTC eased the regulation and allowed the companies to operate channels providing at least two of the broadcasting services.

**III.2 Pursuit of Regulatory Reform**

57. Since its establishment, the KFTC has been leading the efforts to improve various laws and regulations restraining market competition. The KFTC managed the Economic Regulation Reform Committee from 1997 to 1998, overseeing the regulatory reform. Since 1998, the KFTC has participated in the Regulatory Reform Committee as *ex officio* commissioner, working to inspire competition-oriented spirit to the regulatory reform process.

58. In 2004, the KFTC identified 174 anti-competitive regulations, among which 113 (88 in the service sector, 25 in the non-service sector) were chosen as work requiring consultations among relevant government agencies.

59. Regarding the service sector, the KFTC pursued reform of 88 anti-competitive regulations in association with measure taken by the Ministry of Finance and Economy to strengthen competitiveness. The KFTC made a report to the State Council on October 12, 2004 after going through Task Force discussions for each of the 23 service sectors, Task Force discussions for the service industry as a whole and final consultations among relevant ministries.

60. Regarding the non-service sector, the KFTC discussed reform of 25 anti-competitive regulations with the Task Force of officials from ten relevant ministries and at the Economic Ministerial Meetings.

61. As a result, the KFTC agreed with the ministries to eliminate or improve 56 regulations. Examples of anti-competitive regulations are as following;

- Price regulation: The lowest limit of real estate brokerage fees and the ceiling on commission for credit information usage were abolished while regulation on fee standard for judicial scrivener was eliminated.
- Restriction on market entry: A ban on establishment of corporate pharmacies and the collective free contract system was abolished.
- Unfair Restriction on business activities: restriction on legal advertising was eased, the purchase system of large hospitals with more than 100 beds was improved, and the number of channels re-transmitting foreign broadcasting programs was increased.

### ***III.3 Promotion of Competition in the Public Corporation Sector***

62. Continuous monitoring and correction is required for public corporations most of which engage in monopolistic businesses closely related to daily lives of ordinary citizens. Since 1997 the KFTC has conducted 11 investigations into public corporations and corrected and imposed surcharges on unfair business practices including undue assistance and abuse of market dominance by the Korea Electric Power Corporation and others.

63. In 2004, the KFTC launched an on-site investigation into five public corporations — the Korea National Oil Corporation, the Incheon International Airport Corporation, the Korea Airports Corporation, the Korea District Heating Corporation and the Korea Agricultural Trade Information — and detected and corrected unfair business practices and unfair adhesion contracts. Furthermore, the KFTC took measures to improve standards for pre-reviewing qualifications for public bidding, which had restricted free and fair competition, and played a role as competition advocate by participating in discussions on privatization of public corporations.

## **IV. Resources of Competition Authorities**

64. With growing focus on competition policy since 1990s, the number of staffs and the amount of budget have continuously increased. In 2004, the KFTC welcomed 48 new staffs to strengthen investigative capability regarding unfair business practices, including franchises, and subcontracts

### **<Number of the KFTC Staffs and Budget Spending Amount>**

	<b>Number of Staffs (unit : person)</b>	<b>Budget Spending Amount (unit: 1,000,000 won)</b>
<b>2004</b>	469	288
<b>2003</b>	421	264
<b>2002</b>	416	246
<b>2001</b>	416	220
<b>2000</b>	401	193
<b>1999</b>	402	172
<b>1998</b>	410	160

65. Among the 470 KFTC staffs, 83 (17.6 %) hold a master's degree or more. Among those with bachelor's degree or more, 87 (18.5%) have degrees in economics, 66 (14%) in law, 39 (8.3 %) in business administration, and 77 (16.3%) in public administration. There are some experts with professional certificate, such as 24 lawyers including 7 US lawyers, 3 accountants including one with AICPA, 13 experts in law and 6 experts in international affairs.

**<Current Composition of the KFTC Personnel>**

(unit : person, as of Dec 31, 2004)

Persons in charge of the Enforcement of the MRFTA 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			
11	19	57	1	10	55	-	6	33	-	28	49	-	8	98	20	67	470

66. The KFTC is making further efforts to secure more experts. By encouraging studying overseas with government's financial support, the KFTC help officials to acquire overseas a masters or doctorate degree in economics or law. In addition, the KFTC is expanding recruitment of those with professional certificates, such as lawyers and accountants.

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

Analysis on effect of price cartel in raw materials market on consumers: April 2004, LECG Korea Ltd, SONG Gyoung Soon

Types of cartels involving enterprisers organization and measures to fight the cartels: October 2004, The Law Research Institute of Seoul National University, CHOI Byoung Jo

Measures to expand application of Fair Subcontract Transactions Act: September 2004, The Catholic University of Korea, OH Chang Sun

Measures to improve review standards on undue intra-group transactions: November 2004, Management Accounts Association of Korea, LEE Jong Chun

Measures to disclose information regarding subcontract transactions to prevent unreasonable reduction of unit prices: September 2004, Korea Labour Institute, LEE Won Deok

Survey on implementation of important information disclosure: August 2004, Consumers Korea, KIM Jae Oak

Analysis on status of entry barriers and research on effective monitoring and regulation: December 2004, Korea Development Institute, KIM Joong Soo

Measures to enhance effectiveness of relief for consumer damage in small amount: December 2004, Kwang Woon University Research Institute for Industry Cooperation, SONG Young Chool

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Survey on allowance payment in multilevel sales and study on improvement: September 2004, Kyung Hee University, KIM Byung Mook

Development, measurement and assessment of market competition index: December 2004, Seoul Institute of Economic and Social Studies, BYUN Hyung Yoon

Economic analysis on abuse of market dominance by Microsoft: August 2004, Korea Association for Telecommunication Policies, LEE Bong Ho

Research for facilitating Consumer Shinmoongo and introducing standard CCMS: October 2004, Inha University, HONG Seung Yong

Major issues regarding the Act on Consumer Protection in Electronic Commerce, etc. in the m-commerce market: October 2004, Suho Legal Group, LEE Chang Soon

Empirical Study on relationship between competition and economic development: December 2004, Seoul Institute of Transparency of University of Seoul, KIM Il Tae