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Executive Summary

1. Marking the 20th anniversary of antitrust enforcement in Korea, the Korea Fair Trade Commission are looking back on the past 20 years and trying to move forward to the implementation of high quality policy.
2. There have been innovative changes in enforcing the laws. Competition authorities moved away from piece-meal approaches to comprehensive approaches. Instead of responding to individual cases, Clean Market Project was launched to reduce unnecessary regulations, correct unfair trade behaviors and improve monopolistic market structure. In addition, the culture of voluntary compliance has grown among businesses with the introduction of Compliance Program.
3. To firmly integrate the framework for competition into market structure, the KFTC is working to improve anti-competitive laws and regulations.
4. The KFTC has taken on a strong advocacy role. Exercising the prior-consultation right, the Commission blocked governmental protection based on competition-restrictive laws from being introduced and implemented. Also the Commission reduced the remaining anti-competitive elements such as entrance regulation, and provided its views on the policy of facilitating competition in privatizing state owned enterprises (SOEs). It also made efforts against the monopolization stemming from business combination. Addressing a total of 703 cases of business combinations, the KFTC imposed corrective orders on the 4 cases with anti-competitive potential.
5. The Commission strived to establish good transactional practices through monitoring and correcting unfair activities. Noticeably, it imposed more than \$ 76 million of surcharges on 5 major oil refineries for rigging the bid for oil supply to the military, the heaviest in the history of the KFTC.
6. With respect to corporate reform, the KFTC supported individual companies to seek efficient and transparent governance and to do business following principles of competition. For example, to curb leveraged management, the KFTC prohibited mutual debt guarantee, the main culprit for the serial bankruptcies of large businesses and the foreign exchange crisis back in 1998. Also, undue internal transactions have been under constant scrutiny of the KFTC. As a result, the solid network of chaebol subsidiaries has become weak.
7. During the year 2000, a total of 6,339 unfair trades were reviewed and addressed. This achievement saved \$492 million, 34 times the annual budget of the Korea Fair Trade Commission and produced \$300 billion worth of consumer welfare enhancement effect.

Introduction

8. This annual report covers the competition laws and policy in the period of Jan. 1st, 2000 through June 30th, 2001.
9. The year 2001 carries significance since it remarks the 20th anniversary of the adoption of fair trade regime. The birth of the Monopoly Regulation and Fair Trade Act in Korea means not just a creation of another economic law, but a major shift from government-led to market-led economy.

10. For the past 20 years, the KFTC made enormous efforts to let principle of competition permeate through every sector of the economy of Korea. The achievements are as follows.
11. The KFTC established itself as an advocate of competition. In the mid 80s, for the first time as government agency, it took up “deregulation” as its commitment has led the efforts to eliminate government regulations, a legacy from the development era.
12. Much effort has been made to advance the market structure into pro-competitive one through improvement measures and M&A reviews.
13. The Commission has set up the market rules and established fair practices for two decades, detecting 332 cartels in total and correcting 6,400 unfair trade activities.
14. It was the KFTC that first showed its interest in regulating chaebols, which then wielded excessive political and social influence with their economic wealth in the mid 1980s.
15. Also the Commission turned its interest toward consumer empowerment, which was put aside in the growth period and has endeavored to create supportive legal framework.
16. As a result, the market mechanism is undergoing shift from government protection to market principles.
17. At the time of adopting the MRFTA, “competition” was not familiar concept, but now all the economic players have a good understanding of it. It has become one of important considerations in establishing government policies or in making corporate decisions.
18. After 20 years of antitrust enforcement, the KFTC intends to review the past achievement to provide a path toward the implementation of high quality policy.
19. The method of law enforcement experienced innovative changes. Competition authorities moved away from piece-meal approach to comprehensive approaches. Instead of responding to individual cases, KFTC launched Clean Market Project to reduce unnecessary regulations, correct unfair trade behaviors and improve monopolistic market structure. In addition, the culture of voluntary compliance has grown among businesses with the introduction of Compliance Program.
20. The KFTC hosted Seoul Competition Forum 2001 inviting officials from the OECD and EU and competition law experts and policy makers from governments to explore the current challenges and policy directions in this age of globalization.

Changes in Competition Law and Policies

	Summary	
	<p>In an attempt to explore new enforcement methods, the KFTC</p> <ul style="list-style-type: none"> - departed from piece-meal approaches of the past and launched CMP to find holistic solutions for the industry concerned in the comprehensive manner. - strived to promote Compliance Program to induce voluntary efforts from the corporate sector. <p>To enhance the efficiency in enforcement, the KFTC expanded Leniency Program and raised the ceiling of fine for negligence on refusing or disturbing investigations of the competition authorities.</p>	

1. New Policy

(1) Clean Market Project

21. Clean Market Project aims to concentrate KFTC’s capacity on detect anti-competitive elements in selected industries and ensuing harms to consumers so that such industries ultimately become pro-competitive.

22. Despite the repetitive investigations and punitive measures, the market structures and old behaviors did not fundamental improve and violations reoccurred due to case-by-case response to each violation.

23. To address this problem and create competitive market environment, the KFTC identified fundamental problems found in the overall process of production, distribution, and consumption of the target industry and approached them with structural and behavioral analyses.

24. The Commission also has been seeking to review private anti-competitive behaviors, market structure and government regulations and come up with comprehensive and structural remedies. For example, the Commission rigorously corrected cartels, unfair adhesion contracts, false/deceptive representation or advertisement or other unfair transaction behaviors; reformed the sources of monopolization such as entrance restrictions, business activity regulations, etc.; quickly legislated and revised related laws, notifications, or guidelines, if necessary; advised other government agencies when they try to amend or improve related laws and regulations or submitted its views to Regulatory Reform Committee.

25. Since Feb. 2001, the KFTC has conducted investigations into 6 major industries with big influence on the lives of people or with large economic impact such as construction, medical and pharmaceutical, wedding and funeral services, newspaper/megazine/broadcasting, IT and private education, which are largely prone to violations and consumer complaints. This undertaking highly paid off.

26. The investigation into private education sector found that school uniform manufacturers were involved in price cartel and disturbed collective purchase. The Commission imposed a total of 11.5 billion won in surcharge, prosecuted the involved companies, groups, and individual violators to the relevant authorities and is currently working on institutional improvement to firmly establish transparency in the industry. The CMP undertaking in this sector garnered great support from the press and general public.

27. The investigation into newspaper companies uncovered unduly supported transactions worth 543.4 billion won, so the Commission ordered correction and imposed 24.2 billion won of surcharges. The Commission completed field investigations on unfair behaviors such as excessive offering of free newspapers, offering of gift, collective behaviors, unfair adhesion contract, unfair contract transactions, etc. The Commission is currently gathering more evidence.

28. Additionally, the KFTC uncovered that wedding service providers were responsible for tie-in sales of wedding dress and photo service and refusal to refund of reservation fee for cancelled service. It also found that pharmaceutical companies maintained resale price to wholesale distributors. The KFTC is currently coming up with corrective measures and structural remedies.

29. CMP came into being under the recognition of the KFTC that there is a limit in responding to each violation whenever it came up and that it has an obligation to make the most of resources available in order to serve the tax-paying citizens.

(2) *Compliance Program (CP)*

30. There is an emerging need to create a culture of compliance in establishing rule-based market because the single reliance on investigation and punishment incurs huge social cost with limited effect.

31. By benchmarking CP formulated on the OECD/CLP round table October 2000, the KFTC encouraged businesses to introduce their own compliance program. First, in March 2001, the Committee on Compliance for Fair Trade was established, composed of leaders from academia, businesses, and civic organizations. Second, in July 2001, the same Committee worked out Code of Conduct for Corporate Compliance Programs and recommended the Code to industries.

32. At present, CP receives positive responses from the industrial sector and the initiative is expected to spread fast among industries because leading companies of each industry are actively introducing it. The KFTC plans to launch education campaigns on CP and to provide incentives like mitigation and rewards to companies with fair trade rules incorporated in its corporate structure.

(3) *Efforts toward Extra-terrestrial Application and Bilateral Agreement*

33. Ever since, the KFTC's Chairman proclaimed his will to carry out extraterrestrial application of Korea's competition law in October 2000, international cartel in the graphite electrodes industry is under its investigation. Also, preparations for bilateral agreement are underway to efficiently carry through on the extra-terrestrial application plans and actively respond to possible counterpart application from advanced countries. Currently, the KFTC is in talks with Australian counterpart to reach a bilateral agreement, and has plans to open talks with the U.S and EU for the same purpose.

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2. Major Changes in Competition Law and Related Legislation

(1) Extended Leniency Program and Criteria for Exemption

34. Only those who reported undue concerted acts were subject to lighter corrective measures and lower surcharges, but under amended Article 22-2 of the MRFTA, a person who furnished aid by providing evidence in the investigation is included.

35. According to the contributions of informers and other cooperators, the extent of exemption or mitigation is categorized into three: 75%, over 50%, less than 50%.

36. If reports is made and critical evidence is provided for the first time when the KFTC still lacks the relevant information or doesn't have enough evidence, over 75% of surcharge will be lessened.

37. If cooperation for the investigation is made and the necessary information is provided for the first time when the KFTC does not secure enough evidence, over 50% of surcharge will be lessened.

38. If the report of undue concerted acts is made or cooperation for the investigation of it and the necessary evidence are provided, less than 50 % of surcharge will be lessened.

39. Provided, however, that in any cases, the informer must be the person who did not assume a leading role, never forced other enterprises to join the concerted acts in question and should provide cooperation until the concerned investigation is completed.

(2) Upgraded Ban on the Abuse of Dominant Position of the Companies with Essential Facilities

40. The criteria for review of the abuse of dominant position in guideline was upgraded into enforcement decree. Refusing, discontinuing or limiting the use of or access to essential facilities are newly included as one of the types of such abusive behaviors (cf. Article 5, Paragraph 3, Subparagraph 3 and Article 5, Paragraph 4, Subparagraph 3). As competition is introduced into network industries such as electricity·telecommunication, where securing accesses to essential facilities is emerging as an critical issue in assuring competitive position. Therefore, the KFTC saw a pressing need to prevent any abusive behaviors of the companies with essential facilities and to regulate any violation acts.

(3) Increase of the Ceiling on the Fines for the Refusal or Hampering of the Investigation

41. Without forceful investigation authority, the recent KFTC investigation was frequently refused or hampered. To prevent companies under investigation from getting away with small fines by refusing investigations instead of providing cooperation and paying heavy fines, the Commission raised the upper limit of fine imposition on any individuals or corporations that refused, obstructed, or avoided such investigation (cf. Article 69-2, Paragraph 1 of the MRFTA): from 10 million won to 50 million won or less for Individual; from 100 million won to 200 million won or less for corporation.

(4) Additional Objects for the Disclosure of Large Scale Internal Transactions

42. To prevent undue internal transactions through voluntary monitoring, beginning April 1st, 2000, top 10 companies with plans to conduct large scale internal transactions must go through the resolution of

the board of directors and make it public. Considering the larger proportions of undue internal transactions performed by the companies in the lower group with less exposition to social monitoring, the Commission extended the application scope to the top 30 companies in 2001. (cf. Article 17-8, Paragraph 1)

3. Changes in the Guidelines and Notifications

43. The KFTC released a notification on the*criteria for abuse of dominant position*, exemplifying the specific criteria for judging dominant enterprise and specific forms of abusive behaviors. This notification defined not only market share but also the existence and extent of entrance barriers, business scale of competitors, the possible concerted acts, or the existence of imitation products or of adjacent markets as the criteria for assessing whether enterprises are dominant players or not.

44. The existing 5 types of dominant position abuses under the MRFTA were broken down into 20 types. The 5 types were price abuse, supply control, disturbing other enterprises activities, blocking new entrance, engaging in undue transaction to eliminate competitors.

45. The detailed 20 types of Abuses are as follows.

- On Hampering Business Activities of Other Enterprise: Disruption of raw material purchase, unfair hiring of personnel, refusal to deal, discrimination of dealing terms, offering disadvantage, unduly recollecting loans at one time.
- On Hampering the new entrance of competitor: Exclusive contracting with distributors, purchasing essential rights necessary for the continuance of business of existing enterprise, blocking accesses to essential facilities, etc.

46. As the amended MRFTA of 1999 empowered the KFTC to impose compulsory implementation charges on the companies that failed to follow the corrective orders on business combinations, the notification of “the criteria for the imposition of compulsory implementation charges on the failure of following corrective order”was created. The notification specifies the conditions, rates, the period in violation and the timing for the imposition.

Competition Policy Enforcement Achievements

The statistics here covers the period Jan. 1st, 2000 through Dec. 31,2000

Summary
<p>◆ For the year 2000, the KFTC handled 6,399 cases of reviews or incidents, producing around 640 billion won in measurable economic benefit.</p> <p>-Focusing on correcting improper concerted acts, the Commission slapped the heaviest fine in the history of the KFTC, warning that such acts are no more acceptable.</p> <p>-Devoting much capacity to the increased reviews of business combinations stemmed from economic restructuring so that business combinations cannot be led to monopolization. The number of using corrective measures increased to 4.</p>

1. Correction of Unfair Practices

(1) Cases Addressed

47. During the year 2000, the KFTC handled 6,399 cases including online Q&A, with warnings or heavier orders on 1,597cases and imposed 223.4 billion won in surcharges in total.

<Table 1> Cases Closed by Type of Illegal Acts (Unit: case)

Year Type of Illegal Act	94	95	96	97	98	99	2000
Abuse of Dominance	1	3	1	2	5	2	-
Violations of Business Combination Regulation 1)	13	23	36	47	29	15	47
Violation of Provisions Curbing Concentration of Economic Power	8	3	14	6	11	38	19
Undue Concerted Act	19	26	36	22	37	34	48
Prohibited Acts of Trade Associations	56	40	66	53	101	93	117
Unfair Trade Practices	337	353	339	510	404	514	434
Unfair International Contracts 2)	55	40	26	2	1	-	-
Sub-total	489	488	518	642	588	696	665
Unfair Adhesion Contract	72	51	56	152	112	255	56
Unfair Subcontracting 3)	224	387	494	534	580	311	8764)
Total	785	926	1,068	1,328	1,280	1,262	1,597

1) The cases mostly involve the breaching of the deadline of M&A reporting.

2) The number until 1998 included the cases of modified international contracts.

3) Cases include the meditations by Subcontract Dispute Coordination Committee

48. Looking at the individual cases, unfair subcontracting recorded 876 the most in number, followed by 434 cases of unfair trade practices, 117 cases of prohibited acts of trade associations, and 56 cases of unfair adhesion contract. (See table 1)

49. The number of addressed cases of unfair subcontracting showed a rapid increase because the number of light warning against the companies with completed voluntary correction were included as a result of the investigation into 2,000 primary contractors.

50. The number of cases involving unfair trade practices decreased from 515 in 1999 to 434 in 2000 due to the reduction of reported cases. Among them, undue labeling and advertising recorded the highest 312, followed by 38 cases of abuse of dominant positions in transaction, 19 cases of undue client enticing, 17 cases of undue supporting behavior, 12 cases of compulsory transaction, 10 cases of undue refusal of transaction.

51. Whereas violations of provisions curbing concentration of economic power decreased thanks to boosted M&A activities influenced by the recent corporate reforms, business combinations cases are on the increase.

52. Prohibited acts of trade associations and undue concerted acts generally increased than last year. This is probably because going through the industrial and institutional changes since the foreign exchange crisis in 1997, enterprises has been trying to retain their vested interests resorting to unfair collective acts. Looking into 48 cases of unfair concerted act, concerted setting and maintaining of price accounts for most of 38 cases. Transaction area limitation and establishment of joint venture recorded respectively 2 to 3 cases. The noticeable phenomenon of this year is that violations became varied.

53. The KFTC dealt with much increased cases this year in a more strict and efficient manner. The number of the reported cases recorded 22 twice that of last year. While the number of surcharge imposition decreased to 49, the amount of surcharge imposed increased by 76.6 billion won to 223.4 billion won compared to that of last year. This is the result of the KFTC's rigorous approaches against violations with a substantial impact on the market rules.

54. Concerning the bid rigging of the military oil suppliers, the KFTC imposed more than 100 billion won of surcharge and even prosecuted the involved companies, showing a strong will to crack down on undue concerted acts.

55. Corrective orders recorded 484, down 21.6% from last year, while warning orders increased 120%. This is because the KFTC concentrated its capacity on major cases with huge potential impact on the market order and the livelihood of the public. Also the Commission relied more on warnings than corrective orders in dealing with minor cases to ensure higher efficiency.

(2) *Significant Cases*

56. < The Undue Concerted Act of the Five Oil Refineries Involved in the Bidding for Oil Supply to the Military >

57. Case Summary

- Five oil companies such as SK Corp., LG-Caltex Oil Refinery, S-Oil Corp., Hyundai Oil Refinery and Incheon Oil Refinery participated in the bidding for oil supply held by the Ministry of Defense's procurement division for the three consecutive years since 1998.

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- The officers in charge of military supply from each company met in advance and agreed to accept the draft bids worked out by their staffs. The working level staffs from each company also had a pre-meeting where they reached an agreement of determining the successful bidder for each oil product, contract prices / bid prices and quantities in every tender opened each year. With this detailed action plan, they made for a bid and won the bidding as agreed.

58. The Ground for Illegality

- The five refineries participated in the previous bidding for 3 years, resulting in unduly restriction of competition in the annual military oil supply bidding market.

59. Corrective Measures

- The KFTC imposed corrective orders on the five oil companies that they must stop the act and make a joint announcement of the law breach on two major daily newspapers. Also the Commission levied totally 190.1 billion won in surcharges and brought charges to the prosecutor's office against the three of them that hampered investigation.
- Some companies that helped the investigation were exempted from prosecution. Cooperative companies were imposed lessened surcharges, while uncooperative companies were imposed heavy surcharges.
- After the 3 companies were prosecuted in the initial trial, the KFTC filed additional charges against two more companies and related 6 officials. Taking into account that huge loss from exchange rate fluctuation caused financial difficulties to the oil companies, that the oil companies were expecting the increased financial burden due to the 158.4 billion won lawsuit filed by the Ministry of Defense for compensation, and that additional charges were brought against the related officials, a judgment on appeal lowered surcharge from 190.1 billion won to 121.1 billion won.

60. Implication

- The KFTC imposed the highest ever surcharge on the oil companies involved in bid rigging given that enormous harms afflicted i.e. the wasted national budget and crisis in military oil reserve. This is a symbolic warning against undue concerted acts.
- The extent of corrective measure and the amount of surcharge are adjusted according to how much cooperation was provided. This differentiation intended to encourage cooperation for the investigation of cartels in the future.

2. Business Combinations

(1) Cases Addressed

61. A total of 703 cases of business combination were addressed in 2000, up 26.2% from 557 in 1999. This increase is attributable to the sharp rise in M&A activities in the information and telecommunication (IT) Industry.

**<Table 2> Statistics on Cases Addressed
(Unit : Case)**

General Review		Brief Review	
Total	326	Total	377
Corrective order	4	Business combinations among affiliated companies	142
Exception	3	Control-over unformed	132
Accepted report	319	Conglomerate merger of large scale Business group	103

62. Among 703 cases handled, totally 2.82 million won in fine for negligence was imposed on the 42 cases regarding the violations of business combinations reporting rules.

63. The KFTC took corrective actions against the 4 cases including the stock acquirement of SK Telecom and Shinsegi Telecom, and applied exceptions to the 3 cases including the takeover of Kangwon Corp. by Incheon Iron & Steel Corp, etc.

64. On a closer look of combination types, conglomerate mergers increased, while horizontal mergers decreased compared to the year 1999. Under the internal analysis, this change occurred because many of the established large companies in the offline world entered into the IT industry allured by the growth potentials.

**<Table3> Forms of Business Combinations
(Unit : Case)**

	98	99(A)	2000(B)	Variation
Total Number of Case	486	557	703	26.2%
Horizontal Merger	172 (35.3%)	150 (26.9%)	83 (11.8%)	△44.7%
Vertical Merger	107 (22.1%)	75 (13.5%)	37 (5.3%)	△50.7%
Conglomerate Merger	207 (42.6%)	332 (59.6%)	583 (75.6%)	75.6%

65. In terms of forms, stock acquirement or establishment of corporation increased, whereas merger or business takeover substantially decreased in the year 2000. This trend reflects the fact that companies

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preferred stock acquirement or establishment of corporation was to merger or business takeover when they attempt to make a new entrance into other industries such as IT.

**<Table 4> Combination Methods
(Unit : Case)**

Classification	Stock acquirement	Merger	Business takeover	Interlocking Directorate	New establishment	Total
1999	146	145	111	42	113	557557
2000	268	68	84	104	179	703703

66. Looking into individual industries, business combinations occurred much less in the manufacturing sector than in last year, while much more in the service sector. In the service sector alone, IT and financial industries saw largely increased combinations, indicating that active restructurings occurred within each industry.

**<Table 5> Business Combinations in Individual Industries
(Unit : Case, %)**

Classification	1999	2000	Increase Rate
Manufacturing Industry	249	191	△23.2
Service Industry	308	512	66.2
Total	557	703	26.2

67. The KFTC took corrective actions against the 4 cases of business combinations in the year 2000, the highest number of cases ever. Methods of correction range from asset sales to market share regulation to price control, etc. indicating that the Commission has made diversified efforts toward the prevention of anti-competitiveness.

(2) *Significant Cases*

68. <The Takeover of Haitai Beverage by an International Consortium including Lotte >

69. Hotel Lotte of Korea and 4 Japanese companies such as Hikari Press, Asahi Beer, Mitsui, Dentz formed a consortium and notified the takeover of Haitai Beverage.

70. Lotte Chilsung Beverage Co., Haitai Beverage and Coca Cola have been competing for the Korean beverage market. An expected market share of the combined Lotte Chilsung and Haitai Beverage was estimated to reach 50.5% of the entire beverage market and a whopping 83.5% of the fruit beverage market. It is hard to introduce competition from overseas because the volume of fruit beverage imports accounted for only 0.4%.

71. Lotte took up the 3rd place with only 19% stake, but the largest shareholder Hikari is a supplier to Lotte. Lotte also played a leading role in the takeover of Haitai Beverage. Therefore, Lotte together with Hikari is likely to wield control over Haitai Beverage. Considering this possibility of joint control, the business combination above was deemed to hamper competition in the beverage market because Lotte Chilsung Beverage, a Lotte subsidiary and Haitai are likely to engage in collective behaviors through sharing of manufacturing and sales information.

72. To block Lotte from participating in the management of Haitai Beverage, the KFTC banned Lotte from selecting directors and imposed corrective orders that when they raise the prices of fruits beverages of Lotte Chilsung and Haitai, they should do so within the range of inflation hike for the next 3 years.

73. < SK Telecom's Acquisition of Shinsegi Telecom (May 2000) >

74. SK Telecom entered into an agreement with POSCO to acquire 51.19 % stake in Shinsegi Telecom on Dec.21, 1999. At the time, five license holders were operating in the Korean mobile communication market and the combination drove up the market share to 56.9 % with SK taking up 42.7%, Shinsegi, 14.2%.

75. SK Telecom's combination was feared to aggravate the market concentration and there was a concern that the merger might cause the flocking of subscribers to the combined operator due to the industry-specific external network effect. Furthermore, there was no possibility of new entrance into the wireless market and market competition was concerned to be restricted because SK Telecom had a strong edge over other operators in terms of communication network and financial structure.

76. On the other hand, the merger was expected to bring about efficiency improvement through the integration of existing networks, avoidance of overlapping investment, the economy of scale through attracting more subscribers and facilitation of research and development.

77. Initially SK Telecom projected the resulting efficiency gains worth 17 trillion won, while the review of the KFTC calculated that it was worth 2.8 trillion won.

78. Furthermore, including the mergers such as AT&T's takeover of TCI (Feb.1999), Vofafone Airtouch's takeover of Mannesmannsuch (Feb. 2000), the global wireless market was witnessing series of M&As between large mobile service operators with the purpose of achieving the economy of scale.

79. Considering this development, the KFTC realized that rather than unilateral prohibition of business combinations, maximizing the benefits to be derived from it will be better. Under this recognition, the KFTC ordered SK Telecom to reduce its market share to less than 50% by June 30, 2001.

80. The Commission opted for market share reduction order because the nature of the industry makes it hard to utilize structural remedies such as the order of partial sales of assets ·facilities and it also intended to encourage competition after the removal of artificially created market dominance. The said measure aimed at strengthening the competitiveness of other players in the market and thus framework for fair competition can be maintained.

3. Constant Pursuit of Corporate Restructuring

81. Since the economic crisis in the late 1997, the Korean government has been carrying out structural reforms across the 4 major sectors: corporate, financial, labor and public. The corporate reforms are ongoing according to the 5 major tasks agreed by politicians and businesses in Jan. 1998 and the additional 3 tasks added in August 1999.

82. Among them are the elimination of debt guarantees among the affiliates of chaebols, the prevention of undue support and the deterrence of mutual investment, which were enacted and enforced by the KFTC.

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83. It contributed to deterring leveraged management and improving financial structure of large business groups. In the financial market, structural imbalance and risks of serial bankruptcy been redressed. By the end of March 2000, cross debt guarantee which reached a whopping of 33.6 trillion won as of the end 1999 was all cleared.

84. Through 9 times of investigations since 1998, the Commission uncovered and addressed the 29.5 trillion-won undue internal transactions ensuring that independent management system can take hold by removing the harms of “fleet-style” management. To curb multi-level mutual investment, the KFTC reinstated “Investment Ceiling” and went into enforcement in April

Chaebol Policy and the KFTC

Chaebol, unlike large conglomerates in other countries, is a unique socioeconomic phenomenon of Korea. The Korean competition authority has paid its attention to chaebol groups realizing that competitive environment cannot be created without addressing the issues concerned.

The Korean economy has deep-seated monopolistic structure woven around chaebols and is still lacking effective regulating tools to address it. Taking advantage of circular investment, cross debt guarantee, or internal transactions, they gained and has retained monopoly over the input market resulting in the distortion of capital and manpower distribution.

This distortion as a national problem has hampered the market mechanism from functioning. It brought about external diseconomy by protecting internal players from market competition and transferring risks to the external players such as independent companies, minority shareholders or the entire economy.

The competition authority stepped in to address the external diseconomy and then make the market rules work for the full establishment of the market economy.

Mutual investment, cross guarantee, internal transactions, etc among affiliates have the "entrenchment effect." The companies under these internal supports block new entry and drive competitors out of the market. Even financially unviable affiliates are still living on such forms of financial support. The chaebol regulating policy in Korea's competition law provides institutional restraints such as investment ceilings, mutual payment guarantee prohibition, internal transaction regulation with an aim to prevent or reduce the entrenchment effect and ultimately build up a sound frame for competition.

The Advocacy Role of the KFTC

《 Summary 》		
<p>◆ The KFTC, as an competition advocate, has striven to implant the principle of competition across the economy.</p> <ul style="list-style-type: none"> ○ prevented competition-restrictive laws and regulations from being legislated through prior-consultation with other government agencies. ○ identified all kinds of anti-competitive regulations and came up with remedies and suggested those remedies to the Regulatory Reform Committee, removed unnecessary regulations. ○ In privatization of the state-owned enterprises(SOEs), the Commission came up with the measures to facilitate competition and made them reflected in the process so that public monopolization cannot be transformed into private monopolization. 		

1. Review of Competition-Restrictive Laws

85. Under Article 63 of the MRFTA, the KFTC is conducting prior-consultation of the laws that might restrict competition. When other government bodies intend to legislate or amend the laws under their jurisdiction, they should ask the KFTC for review of any possible anti-competitiveness of the laws concerned. Then, If there are any elements that might restrict competition such as entrance barriers or prices control, anti-competitive cartels, the KFTC should inform them of its view and ,if necessary, it brought the matters up to Regulatory Reform Committee, Economic Ministerial Meeting, Vice-ministerial or cabinet meeting for remedies.

86. The number of the laws/cases brought up for prior-consultation in the year 2000 recorded 481, down 14.3% from last year 1999. The decrease points to the reform-related laws entered into stabilization this year with the number of enactment or amendment decreased unlike in 1998 and 1999, when reform measures and initiatives were at the height of being implemented.

87. Among the total 481 cases that went through the re-consultation, the KFTC submitted it reviews on 60 cases (12.5%), among which 51 cases (85%) were reflected, indicating that an average of 88% of its opinions was reflected just like last year in the legislative processes. This means that the KFTC's policy recommendations are in line with the government's policy direction toward regulatory reform, competition promotion, transparency enhancement and that its active voicing is reflected in ministerial meetings ·cabinet meetings.

**<Table 6> Recommendations Provided and Reflected
(unit : case)**

Year	Number of Preconsultation	Number of Suggestion	Results	
			Reflected	Non-reflected
2000	481	60(12.5%)	51(85.0%)	9(15.0%)
1999	561	72(12.0%)	64(88.0%)	8(12.0%)
1998	563	173(30.7%)	127(73.4%)	46(26.6%)
1997	408	139(34.1%)	106(76.3%)	33(23.7%)

(2) *Significant Cases*

88. When amending a provision of the “Enforcement Decree of the Broadcasting Act” that a single system operator shall not extend into the two thirds of the designated CATV business area within the same metropolitan city, the KFTC judged that this is excessive limit on business area and at the same time it undermines the spirit of the Broadcasting Act of competition facilitation, so the Commission advised it to be deleted.

89. With respect to the “Media Representative Act” under legislation in the Ministry of Culture and Tourism (MCT), according to the review of “dividing the representation market into public and private” and “Ministerial designation system”, the Commission advised the MOCT to abolish the provisions since they block the competition in the market concerned. In addition, the Commission also advised the Ministry to change “Permission System” into “Registration System” concerning broadcasting representation business in order to reducing the entrance barrier. The said legislation is under consultation because the commissioners at the Regulatory Reform Committee are still divided.

90. Under the “Korea Shipping Association Act”, the Association was entitled to control the number of ships of coastal shipping company to prevent the oversupply of the ships. The KFTC saw that the association is not in the position to control the supply & demand of the ships and that it should let them controlled by the market mechanism. Also the provision in question is against the spirit of deregulation from “license system” to “registration system”. Under this consideration, the Commission advised to delete the provision.

91. Prior-consultation system is an important and instrumental tool to promote competition principles among government agencies and to stem anti-competitiveness from the earlier stages of legislation. By fully utilizing this deterrent mechanism, the KFTC intends to do its best as an competition advocate so that competition should not be undermined by any laws and regulations.

2. Pursuit of Regulatory Reform

92. The KFTC established “Regulatory Reform Task Force Team” within its organization. Maintaining cooperative relations with the presidential Regulatory Reform Committee, the task force is working to discover anti-competitive regulations, come up with remedies and lay them before the Regulatory Reform Committee.

(1) Significant Cases

93. The KFTC improved regulations on the electronic commerce items under treatment restriction. When companies start business of selling music disc (including video tape and game material) or medical appliance, they are required to secure physical business area before registration reporting. However, this is unnecessary regulation for businesses online, mostly acting as a middleman. The KFTC produced remedies for this regulation and submitted them to the Regulatory Reform Committee. In response, the Committee abolished the provision/conditions/ in question.

94. Abolished the Scout Ban of Life Consultant in the insurance industry. The insurance companies formed an agreement that unless the retired life planners stop their activities of collecting buyers for the next 6 months, they should not choose other business partners or Scout Ban of Life Consultant and had the agreement in place with the permission of the Financial Supervisory Commission (FSC).

95. The agreement in question was designed to avoid the competition in recruiting life planners, one of the most important means for selling insurance products, so it practically limited competition in the industry.

96. The KFTC requested the Insurance Company Association and the individual insurers to voluntarily nullify the agreement in question and at the same time, if there is any delay in the nullification of the agreement, it requested the FSC to exercise the rights to abolition order. The Regulatory Reform Committee voted for the abolition and then the agreement was finally abolished.

97. The KFTC helped abolish the commission for used car dealers. The “Automobile Management Regulation” set the upper limit of commission rate that auto dealers can charge. Most of the car dealers practically formed “price cartel” by charging the maximum price regardless of service quality or region because commission regulation is technically maximum price regulation, which means price competition should take place under the suggested maximum price.

98. Reaching an agreement with the Ministry of Construction and Transportation (MOCT) and going through the resolution of the Regulatory Reform Committee, the KFTC ordered that car dealers should liberalize the commission rate until March 2000.

99. Lowering conditions for Beer Manufacturing:

- The minimum conditions for awarding license for beer manufacturing business were substantially eased. The KFTC submitted its policy suggestions: Maximum tank volume should be abolished or lowered from the current 6 kl to 10 kl and production quantity should be set over 60.
- The Regulatory Reform Committee agreed on the principle that it should make it possible to make beer on a small scale and ordered the Ministry of Finance and Economy (MOFIE) to lay a detailed measure before the Committee by the end of August 2001.

100. In the year 2000 to facilitate electronic commerce, a driver of the digital economy, the KFTC spurred its reform drive identifying and improving the two representative anti-competitive regulations of entry restriction and price regulation. Unlike the past endeavor with limited resources and case-by-case approaches, the comprehensive CMP, if successful, a higher level of regulatory reforms are expected among all the industries and markets.

KOREA

3. Competition Facilitation in the public sector

101. The Korean government in 1998 embarked on public sector reform in carrying out the government-led reform across the 4 major sectors. Since then, strenuous efforts have been made toward the privatization of SOEs and managerial innovation at a governmental level.

102. The KFTC has made a diversified effort to transform the public sector toward pro-competitive market structure.

103. To prevent public monopoly from being transformed into private monopoly in the privatization process, the KFTC actively proposed competition advocacy measures to related government agencies and SOE Privatization Promotion Committee. When laws and regulations related to the SOEs, the KFTC suggested the abolition or loosening of anti-competitive regulations such as price regulation or approval/permission regulations. Every year the KFTC disclosed/exposed and addressed unfair trade, undue internal transactions, etc.

(1) Significant Cases

104. The Korea Electric Power Corporation (KEPCO) was restructured into generating and transmission /distribution companies.

105. Related laws are in the making in order to break up generating unit into 6 subsidiaries and carry out privatization from the year 2002, thereby adopting competition in wholesale supply and enabling the power produced by generators to be traded through Korea Power Exchange.

106. The KEPCO will retain transmission unit while open distribution unit after the year 2009 for retail competition.

107. The Korea Gas Corporation (KOGAS), the state-owned gas monopoly, is planned to be reformed. Within the year 2001, its import/supply and wholesale units are to be divided into 3 subsidiaries and the two of them is to be wholly privatized by 2002. LNG terminals and pipelines will be retained by KOGAS, but Open Access System (OAS) allowing third party access to its LNG facilities will be introduced to ensure fair competition in the industry.

108. The KFTC suggested that even before launching privatization of the retail sector currently under local monopolization, local monopolization should be eliminated even by amending the “City Gas Business Act”. But the result is that competition in the retail sector will be phased in considering the development in the wholesale area.

109. In the process of privatization, substantial part of the measures for introducing competition suggested by the KFTC were reflected and are now currently being carried out. The structural reform undergoing in the electricity and gas industry is more competition-oriented than before.

110. To ensure that the monopolistic structure should not outlive the privatization, The KFTC eliminated the restrictions on entrance or created the environment for effective competition. By reinforcing the law enforcement against discriminatory treatment, abuse of market dominance, collective behavior (cartels) in the privatized market, the KFTC will encourage fair trade principles to be established in the earlier stage.

The Budget and Manpower of the KFTC

111. The budget and personnel have increased as the government of the Republic of Korea put a higher focus on the competition policy since the early 1990s, but the number of personnel stabilized on the level of 400 since 1998.

<Table 7> Personnel and Budget Expenditure of the KFTC

	Person-years ¹⁾	Budget expenditure (100 million won)
2000	401	193
1999	402	172
1998	410	160
1997	403	184
1996	381	146
1995	341	105
1994	279	80
1993	254	64

1) This refers to the number of regular personnel. If irregular staffs are included, the KFTC employed a total of 444 staffs in the year 2000.

112. Among 444 of the KFTC's personnel, 95 (21%) hold master's degree or Ph.D. In terms of major, those majored in economics are 81 (18%), law 51 (11%), business administration 40 (9%), and public administration 87 (20%), demonstrating the shortage of law and economics majors. The need to replenish those with the degrees in law and economics and economic analysts is emerging to conduct in-depth analysis for investigation.

**Table 8> Current Composition of the KFTC Personnel
(unit : person)**

Classification 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 6.5, 2001. (variation)	12	23	46	1	9	41	0	9	31	-	34	53	0	7	82	26	70	444
	(△2)	(△6)	(+9)	(△2)	(+11)			(△3)			(△12)	(+13)		(+2)	(+5)	(△2)	(△5)	(△12)
As of 12.31, 1998 (variation)	10	29	37	1	11	30	0	12	31	-	46	40	0	5	77	28	75	432
As of 12.31, 1997	11	29	33	1	11	30	1	11	30	-	49	40	0	5	75	29	81	436

113. The budget and manpower do not catch up with the highly increasing need for the enforcement of competition law. To lessen the heavy workload stemming from such shortage, the budgetary and human resources need to be reinforced.