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COMPETITION COMMITTEE

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

-- 2013 --

**17-18 December 2014**

*This report is submitted by Korea to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 17-18 December 2014.*

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## EXECUTIVE SUMMARY

### 1. Changes to Competition Laws and Policies, Proposed or Adopted

#### 1.1 Summary of changes in provisions of competition law

1. Since the inauguration of the new administration in 2013, the Fair Trade Commission of the Republic of Korea (hereinafter, “the KFTC”) has implemented competition policies consistently “based on economic principles”. In particular, the KFTC redefined the concept of so-called “economic democratisation”, one of the key policy goals of the new administration, as ‘fair rewards for fair activities’. Under this principle, the KFTC has focused its regulation on unfair trade practices of businesses pursuing more than normal returns. In an effort to enforce such principle, eight legislation tasks for economic democratisation have been completed.<sup>1</sup>

2. First of all, the practice of allocating orders only to the affiliates under the control of the corporate owner’s family members has been subjected to regulation for the first time. The legislation is expected to induce large companies’ voluntary improvement effort of their anti-competitive conducts by refraining from giving excessive orders unfairly to affiliates and increasing competitive bid and direct orders to small and medium businesses. It is also expected that independent SMEs, which do not belong to conglomerates, will get opportunities to partake in the competition, which will promote innovation and development of them and create sound business environment.

3. In addition, the legislation of policies to curb the economic power concentration by prohibiting new circular shareholding between and among affiliates of large corporate groups has been successfully completed. This legislation is expected to serve as the minimum safeguard to prevent expansion of insolvency of large companies and promote sound development of domestic economy. Going forward, it is expected to prevent harmful effects of economic concentration, such as the support for insolvent affiliates through new cross-shareholding and the simultaneous insolvency of conglomerate, the maintenance and expansion of excessive control, and the expedient inheritance and succession of management rights. Meanwhile, it is expected that there will not be much restriction on sound business activities including investment since the exceptions, such as business restructuring, are widely allowed.

4. Moreover, systematic devices to protect rights of the economically weak, including the introduction of treble damages for unfair subcontracting transaction, the assignment of rights to negotiate the delivery price to union of SMEs, the prohibition on unfair special subcontract, strengthening rights of franchise owners (prohibition on enforced store renewal and obligation of expense sharing, obligation of providing written data of expected sales, prohibition on late-night operation, etc.) are dramatically reinforced. This will allow the economically weak, including small and medium subcontractors, suppliers

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<sup>1</sup> ① regulation on the practice of allocating orders only to the affiliates whose majority shares are owned by the owner family without competition ② ban on new circular shareholdings, ③ abolition of exclusive right to accuse, ④ treble damages for unfair subcontracting transaction, ⑤ union of small and medium sized companies’ right to negotiate the delivery price ⑥ prohibition of special subcontract ⑦ strengthened right of franchise operators ⑧ consent decree system in Fair Labeling and Advertising Act

and franchisers, to fully secure their rights in transactions with large companies, large distributors and franchise headquarters.

5. Additionally, the KFTC's exclusive right to file a complaint to the prosecutors' office was abolished strengthening surveillance over unfair activities. The Board of Audit and Inspection, the Public Procurement Service and the Small and Medium Sized Business Administration are now granted a right for requesting complaints. Furthermore, consent decree system was introduced in Fair Labeling and Advertising Act, which would allow a quick conclusion of cases based on remedies proposed by business owners. This is expected to enable a quick relief of consumer damage and flexible law enforcement.

## **1.2 Details of Amended Provisions**

### *1.2.1 Amendment of the Monopoly Regulation and Fair Trade Act (the MRFTA) and its Enforcement Decree*

#### 1.2.1.1 Improvement of exclusive right to accuse (June 25, 2013)

6. Even when the KFTC decided that the complaint requirements are not met, the heads of the Board of Audit and Inspection, the Public Procurement Service and the Small and Medium Sized Business Administration may request that the KFTC files a complaint to the Prosecutors' office, for the ground of other situations such as social ripple effects, effects on national finance, degrees of damage on small and medium businesses, etc. In case of receiving requests, the Chairman of the KFTC shall file a complaint with the Public Prosecutor General obligatorily.

#### 1.2.1.2 Introduction of provision concerning exemption for leniency applicants (June 25, 2013)

7. Legal basis has become clearer to give exemption from filing a complaint with prosecutors' office to a person who voluntarily reported unfair corporate actions or co-operated in investigations by providing evidences, etc.

#### 1.2.1.3 Strengthening provision of prohibition on unfair assistance (July 2, 2013)

8. Requirement of the unfair assistance was changed from "markedly favourable conditions" to "considerably favourable conditions" thus making law application easier. As a type of unfair assistance, activities of having trade via companies or those who have special relations but with no practical roles (so called a "toll" practice) were newly added. Also beneficiaries are now subject to sanctions as the KFTC prohibits activities of receiving assistance when there is a possibility of falling under unfair assistance.

#### 1.2.1.4 Introduction of ban on providing unfair benefit to affiliated persons (July 2, 2013)

9. Companies belonging to conglomerates larger than a certain size should refrain from doing transactions<sup>2</sup> with affiliates whose certain amount of shares are owned by an affiliated person (owner's family) or a subsidiary.

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<sup>2</sup> ① transaction with a considerably more advantageous condition than that of normal transactions, or ② provision of business opportunities which can be considerably profitable in case of direct transaction or transaction through affiliated companies, or ③ transaction of cash and other financial products with a considerably advantageous condition, or ④ transaction made in a considerable scale without reasonable consideration on business capability, financial state, credit rating, etc. or without comparing those factors with those of other business operators

## 1.2.1.5 Introduction of provisions prohibiting new circular shareholding (December 31, 2013)

10. In order to prevent side effects, such as expansion of control using circular shareholding, which is a detouring means of mutual investment, provision of prohibiting circular shareholding, was introduced. It prohibits an affiliated investment which forms a new circular shareholding, and it also prohibits an additional affiliated investment which strengthens the circle of existing circular-shareholding.

1.2.2 *Enactment and amendment of the notifications and guidelines related to the MRFTA*

11. In 2013 the KFTC disclosed its specified criteria assessing severity of law violations by types of behaviours, enhancing transparency and consistency in calculating surcharges. Deterrence against law violations was also improved by streamlining reasons and ratio for aggravating and reducing surcharges.

12. In addition, with the increasing number of reports on unfair transactions, a private reviewing committee system was introduced to handle the cases arbitrarily decided by investigators more transparently and effectively.

13. Meanwhile the “Provisions concerning operation of Compliance Program and a guarantee of incentives in the program” were partly amended to strengthen the system by excluding companies which violated laws from the subjects of CP grade evaluation, newly inserting the grounds for postponement of giving grade or not-giving grade in calculation of evaluation grade, and clarifying the expiration date of evaluation grade.

1.2.3 *Enactment and amendment of other laws and regulations*

14. Besides, there were several amendments to the Fair Labeling and Advertising, the Fair Franchise Transactions, the Fair Subcontract Transactions, and the notification on the Consumer Protection in Electronic Commerce, Etc. Details of the amendments will be available on the English website of the KFTC (<http://eng.ftc.go.kr>) later.

## 2. Enforcement of competition laws and policies

### 2.1 Statistics of case handling record

**Table 1. Record of case handling by the KFTC (tougher than warning) (Unit: case, %)**

Classification	2011	2012	2013	Year on year increase or decrease
Abuse of market dominance	0	1	0	Δ100
M&A	21	37	21	Δ51.6
M Economic power concentration	77	31	45	45.2
F Cartel	71	41	46	12.2
T Prohibited act of enterprisers organisation	85	66	63	Δ4.5
A Unfair business practice	279	248	180	Δ27.4
Subtotal	534	424	355	Δ16.2
Fair Subcontract Transactions Act	802	1,100	1,084	Δ1.5
Fair Franchise Transactions Act	111	102	73	Δ28.4
Fair Transaction Act in a Large-scale Retail Sector	-	0	1	-
Etc. (failing to submit data, denial of investigation, etc.)	4	1	0	Δ100
Total	2,314	2,519	2,171	Δ13.8

## 2.2 *Cartel*

### 2.2.1 *Overview*

15. In 2013, the KFTC carried out policies for eradicating cartels that impair function of the market economy by hampering the application of competition principle. First of all, the KFTC pursued strict sanctions against violations conducted in the fields closely related to people's living, bid rigging, etc. An intensive monitoring was conducted in 2013 in relation to cartel activities in the fields with direct impacts on the people's life such as auxiliary textbooks, school uniforms, life insurance, agricultural machines, cargo trucks, etc. as well as bid rigging for public procurement, including Jinwi waste water treatment plant project, the subway smart mall project, public tender for cables for nuclear power plants, etc. In consequence, a total of 46 cartel cases were uncovered, remedies were imposed on 33 cases of them, and surcharges of 364.731 billion won were levied in total.

**Table 2. Performance in Correction by Type of Corrective Measures against Cartel Activities (Warning or heavier measures, Unit: cases)**

Classification	Reference to prosecutor's office <sup>3</sup>	Corrective order <sup>4</sup>		Warning	Total	
		surchage	surchage			
2013	13	13	20	16	13	46

16. In addition, the KFTC strengthened its efforts for detecting and correcting international cartels that negatively affect the domestic market and consumers. For example, the Commission imposed sanctions against an international cartel which was found to have colluded to fix selling prices in the large cargo commercial vehicle market. Also, foreign automobile part suppliers were sanctioned for forming a cartel in the bidding procedures for metering devices and windshield wiper systems ordered by Hyundai • Kia Motors.

17. At the same time, measures for preventing cartel activities were pursued actively in order to raise the awareness about the competition law among corporations operating in Korea and abroad. More specifically, presentations on cartel-related affairs were held by inviting corporations and business associations operating in Korea. Further, presentations for executives and employees overseas who were generally thought to be less conscious of the importance of the compliance with competition law were also held (in Poland and China).

### 2.2.2 *Major cases in 2013*

#### 2.2.2.1 Fixing of Commission Rates Charged on Variable Life Insurance Policies (March 20, 2013)

18. The KFTC imposed fines in total of 20.1 billion won on 9 life insurance companies, including Samsung, Korea, Kyobo, Shinhan, and MetLife, and referred five of them to the prosecution for fixing commission rates for GMDB (Guaranteed Minimum Death Benefits) and GMAB (Guaranteed Minimum

<sup>3</sup> It refers to cases where the filing a suit with the prosecution was pursued as a representative counteraction, and includes all the following cases where the counteractions included: (1) the filing a suit with the prosecution only; (2) both the filing a suit and issuance of a corrective order; and (3) the filing a suit, issuance of a corrective order, and imposition of surcharge.

<sup>4</sup> It refers to cases where the issuance of a corrective order was pursued as a representative counteraction, and includes both of the following cases where the counteractions included: (1) the issuance of remedies only; and (2) both the issuance of remedies and imposition of a penalty surcharge.

Accumulation Benefits) charged on variable life insurance policies as well as the ceiling of the separate account operation commission rates. This set of actions is significant in that the punished cartels were done in areas which are difficult for general people to understand, thereby sending a strong message to the market that the KFTC will crack down on any conspiracy exploiting such information asymmetry.

#### 2.2.2.2 Price-fixing for Agricultural Machines (May 20, 2013)

19. The KFTC imposed corrective orders and penalty surcharges of 23.460 billion won in total against five agricultural machine manufacturers and sellers for unfairly restricting competition in the market by jointly deciding the price reported to the Government and their supply price to the National Agricultural Cooperation Federation (NACF). In addition, the KFTC filed a suit with the prosecution against four companies which were found to have acted in collusion with each other in bidding for agricultural machines or for the price-fixing of tires for farming machines.

20. By obligating manufacturers and sellers to report agricultural machine prices, the Government had virtually exercised the right to control prices through administrative guidance for a long time. Even after the report system was abolished in January 2011, manufacturers continued their collusive practices, thereby raising the need to correct these anticompetitive conducts. The commission concluded that the act of violation was less serious, taking into account the views that the administrative guidance of the Government served as one of inducements of collusion and the prices reported to the Government did not have negative impacts directly on farmers(consumers) given discount competitions in the distribution stage.

#### 2.2.2.3 Cartel between Large Commercial Cargo Vehicles (July 30, 2013)

21. Seven businesses (Hyundai, Tata Daewoo, Daewoo Songdo, Daimler, MAN, Volvo, and Scania) which are competitors each other in the large commercial cargo vehicle market for dump trucks, tractors and cargo trucks etc. were found to have systematically exchanged important business information with one another about price increase plans, sale prices, the quantities sold and in stock, plans for sales promotion events, the current conditions of sales organisations, etc. These companies colluded in fixing prices by determining their sales prices based on the information they acquired from their competitors. Concerning the case the KFTC issued corrective orders and imposed a total of 116 billion won in penalty surcharges against these seven companies, and accused each of them to the prosecution.

22. This case carries significance in that strict sanctions were imposed against a price fixing which was based on the exchange of confidential business information and the formation of agreement between competitors which continued for a long time in a systematic and clandestine manner. Further, the KFTC made it clear that not only a direct price agreement but also a tacit agreement through information exchange can be punished as a cartel.

#### 2.2.2.4 Bid-rigging for Cable Purchase Contract for Nuclear Power Plants (October 11, 2013)

23. The KFTC issued corrective orders (ban on repeating such conducts and on information exchanges) and imposed a total of 6.35 billion won in fines against eight business operators for making prior agreements and joint decisions on supply distribution, successful bidder, bidding prices, etc. in relation to purchase bid for cables for nuclear power plants. This case carries significance in that counteractions were taken against the cartels which had persisted for a long time in a field which is directly related to the public safety.

#### 2.2.2.5 Bid-rigging between Japanese and German Suppliers of Vehicle Metering Devices and Windshield Wiper Systems (December 23, 2013)

24. The KFTC detected that five auto part suppliers including Denso Corporation, Denso Korea Electronics, Continental Automotive Electronics, and Bosch Electrical Drives made an agreement to select a successful bidder from among them in the bidding procedures for metering devices and windshield wiper systems ordered by Hyundai • Kia Motors, and actually put the agreement into action. The KFTC imposed penalty surcharges of 114.6 billion won in total, and referred them to the prosecution. This case is significant in that it has become the first case where the penalty surcharges were determined and imposed based on the future sales estimated to be recorded assuming the cartel attempts were successful.

## 2.3 M&As

### 2.3.1 Overview

25. The total number of M&As made in 2013 stood at 585 cases (based on the number of cases examined by the KFTC) which were collectively worth about 165.2 trillion won. Compared to 2012, the number of M&As in 2013 was reduced by 66 cases (10.1%), but the total amount increased by 14.7 trillion won (9.8%) from 150.5 trillion won in 2012.

**Table 3. Number of Recent KFTC reviews on and Amount of M&As**

	2009	2010	2011	2012	2013
Number of examinations	413	499	543	651	585
Amount <sup>5</sup> of M&As (trillion won)	150.3	215.4	140.2	150.5	165.2

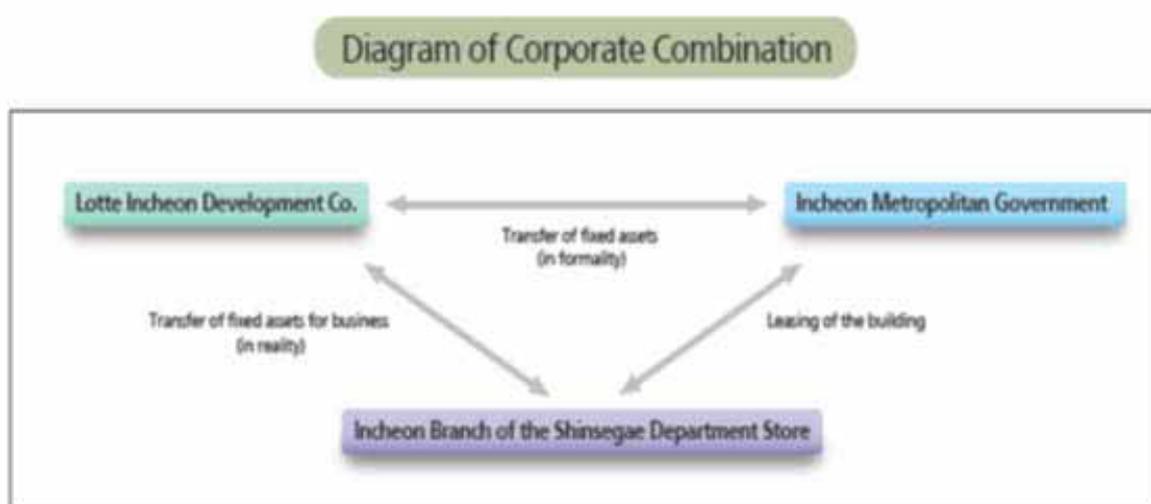
### 2.3.2 Major Cases in 2013

#### 2.3.2.1 Violation of provisions on M&A Restrictions by Lotte Incheon Development Co., Ltd.

26. On 30 January 2013, a contract that Lotte Incheon Department Co., Ltd. (hereinafter “Lotte”) made with the Incheon Metropolitan Government on the purchase of the building and the building site of Incheon Terminal resulted in Lotte’s acquisition of business of Incheon branch of Shinsegae Department Store that had been engaging in department store business in the building as a tenant. There were views that the case does not fall into the M&A cases subject to the MRFTA as it is, when considering the form, a mere transaction of assets between business and the local government. However, in reality, it was department store company’s indirect acquisition of other competitor’s business, so after considering the practical contents of the contract, the KFTC decided that the case falls under the reporting obligation. The following picture is the overview of this M&A.

<sup>5</sup> For acquisition of stocks, it means the amount of money paid in return for the stocks acquired. For acquisition of business, it means the amount of money paid and the liabilities taken over in return for the acquisition of business. For merger, it means the total issuing amount of stocks given to shareholders of acquired companies based on the merger ratio and plus the amount of money delivered due to merger.

Figure 1. Overview of the M&A



27. In the case, there was a concern over that when Lotte acquires the Shinsegae branch the company would practically monopolise the market of the region. The KFTC ordered Lotte Incheon Department Co. Ltd. to sell off two of its stores to those without special relations who would use the stores under the original purpose, in order to suppress the formation of anti-competitive market structure in department store market in Incheon and Bucheon area.

28. The case has its significance in that the KFTC has made it clear that merger participating companies shall report the transactions despite their efforts to circumvent the obligation to report and to game the system by reconstituting the trade.

### 2.3.2.2 MediaTek-MStar Case

29. MediaTek, Inc. (hereinafter “MediaTek”) acquired 48% of MStar Semiconductor’s (hereinafter “MStar”) stocks and signed a merger agreement and reported the transaction to the KFTC. MediaTek (a Taiwanese company ranked the 2<sup>nd</sup> place in the world market for SoC chips) and MStar (a Taiwanese company ranked the 1<sup>st</sup> place in the world market for SoC chips) are Fabless semiconductor companies that design and sell SoC chips for Digital TVs (hereinafter “DTVs”). The KFTC closely analysed and reviewed the case especially regarding the concerns over potential price increase after the merger.

30. The KFTC decided that the merger would restrict competition in the SoC chips for DTVs market considering that the merger would strengthen market dominance and widen the existing gaps between competitors thereby reducing competition, and restricting the possibility of purchase conversion by demand enterprises. Therefore the KFTC issued remedies demanding: 1) the company to reduce the price of its new product in line with the average reduction rate of its other products and to maintain the price, and 2) merger participating companies to sign a written documents with demand enterprises which include details of price and technological support, and various guarantees for defects.

### 2.3.2.3 ASML-Cymer Case

31. ASML US, Inc. (hereinafter “ASML”) signed a contract for acquiring 100% of Cymer, Inc.’s (hereinafter “Cymer”) stocks (on Oct 16<sup>th</sup> 2012) and reported the transaction thereon to six antitrust authorities including the KFTC (on Dec 13<sup>th</sup> 2012). ASML is the world’s largest company in the semiconductor lithography system market and Cymer is the world’s biggest company in the market for

laser light source which is a key component of semiconductor lithography system. At that time Cymer planned to merge Kona Technologies, LLC. which is an another affiliate of ASML thus ultimately subsisting as an affiliate of ASML, “Cymer, LLC.” whose 100% shares are owned by ASML. The KFTC closely reviewed whether there is possibility of anti-competitiveness affecting the other Japanese competitors or end buyers in Korea, the US and Japan after the vertical merger in lithography system and light source markets.

32. The KFTC decided to impose remedies to prevent possible anticompetitive effects including foreclosure effect and co-ordination effect, and demanded the companies 1) to independently operate their sales units, 2) to install firewall for preventing confidential information exchanges, 3) to comply with FRAND principle when buying or selling light source, and 4) not to engage in abusive behaviors when selling their lithography system.

33. The remedies are significant because they are the first corrective measure which took into account dynamic impacts that technological development has on efficiency. Also in dealing with the case, the KFTC actively co-operated with foreign competition authorities in the US and Japan from the initial stage of investigation.

## 2.4 *Unfair business practices*

### 2.4.1 *Overview*

34. The KFTC has focused its efforts on correcting unfair business practices closely related with ordinary people’s lives, and has pro-actively responded to practices abusing market dominant positions. In particular, since 2006 the KFTC has intensively monitored 5 or 6 types of businesses in which the monopolistic or oligopolistic market structure had become solidified or closely related with lives of ordinary people. In 2013, the KFTC detected unfair business practices and imposed remedies against such as resale price maintenance, purchase coercion, and unfair inducing in industries such as mobile communications, finance, processed food, medical devices and internet portal.

35. The KFTC handled 279 cases related to unfair business practices which represent 57.5% of 659 case handlings by the KFTC under its antitrust law. The followings are the performance of case processing by subdividing the type of unfair business practice.

**Table 4. Case handlings by types of unfair business practices (Unit: cases)**

	Refusal to trade	Discriminative dealing	Exclusion of competitors	Unfair inducing	Unfair transaction coercion	Abuse of business position	Exclusive dealing	Obstruction of business activities	Unfair assistance	RPM	Etc.
'09	57	5	0	407	56	255	23	31	7	16	44
'10	54	6	2	328	17	244	5	33	4	20	14
'11	35	5	8	182	24	282	8	31	8	9	8
'12	31	4	9	518	17	188	19	26	9	8	0
'13	19	3	1	191	11	119	6	16	9	4	0

## 2.4.2 Major Cases in 2013

### 2.4.2.1 Johnson & Johnson Korea's behavior fixing and forcing the selling prices

36. The Johnson & Johnson Korea fixed the minimum selling prices of its Acuvue contact lenses supplied to optical stores and had forced them not to sell the contact lenses at any price lower than the fixed lowest prices. Also Johnson & Johnson has made a discount dealership agreement on the supply of products, under which 1) it should give a discount of 10% of the amount of transaction on condition that a dealer should not distribute any of these products to any non-dealer optical store and 2) the company shall cancel the agreement and revoke the discount if any product was transferred to a non-dealer. The KFTC imposed a fine of 1.8 billion won against the company which maintained resale prices and traded under unfairly binding terms and conditions.

## 2.5 Statistics on the KFTC's case handlings and suits

### 2.5.1 Case-handling performance

37. The number of cases handled in 2013 was 3,434 in total, a 22.0% decline compared to that of 2012 which was 4,404 cases. Among them, 2,171 cases were sanctioned by measures of or tougher than warnings, a 13.8% decrease from 2,519 cases in 2012. Meanwhile, the number of complaint filed was 61, a 38.6% increase compared to 44 in 2012 and the ratio of complaints filed compared with fines imposed is 67.8%, increased 1.3 times compared with 53% in 2012. This was largely because that the number of cartels against which the KFTC filed complaints increased 6.5 fold (from 2 to 13) compared with that of the previous year.

38. The number of cases on which surcharge was levied in 2013 was 90 cases, up 8.4% from 83 cases in 2012, but the amount of surcharges imposed in the year was 418.4 billion won, decreased by 18.1% from 511 billion won in 2012. Among them heavy surcharges were imposed against a cartel formed by six manufacturers and sellers of zinc coated steel sheet (157.9 billion won), commercial freight vehicle cartel by seven manufacturers and sellers (116 billion won), color steel sheet cartel formed by six manufacturers and sellers (93.4 billion won), and plate glass cartel by two manufacturers an sellers (38.4 billion won).

**Table 5. Number of case handlings classified by types of measures imposed (Unit : case)**

Type	'09	'10	'11	'12	'13
Complaints (surcharges imposed on)	43(8)	19(3)	38(22)	44(7)	61(17)
Corrective order (surcharges imposed on)	486(70)	277(63)	370(134)	388(76)	314(73)
Corrective recommendations	85	66	62	51	46
Warning etc.,	2,589	1,763	1,842	2,036	1,750
Others <sup>1)</sup>	1,461	1,513	1,567	1,885	1,263
In total	4,664	3,638	3,879	4,404	3,434

1. Freedom from suspicion, case handling process completed, and redetermination of surcharge etc.,

### 2.5.2 Litigation

39. In 2013 the KFTC imposed 377 remedies in total and among them the number of cases appealed by businesses disobeying the KFTC's remedies was 46 in total, and the rate of appeal was 11.4%.

40. The number of remedies in 2013 was decreased by 64 cases but the number of suits filed was down by 14 cases so the rate of appeal dropped 2.2%p year on year. It seems that many complex factors

have contributed to the decrease in the rate of appeal, which include: the KFTC's policy efforts to actively guarantee the defendants' right to defend in the course of review and to give more reasonable and transparent measures; increased predictability thanks to accumulated rulings by courts; and increased negative social recognition over companies who violated the MRFTA.

**Table 6. The number of corrective measures or cases against which suits were filed in recent 5 years**  
(Unit : case, %)

	2009	2010	2011	2012	2013
Number of corrective measures imposed	586	356	461	441	377
Number of cases against which suits were filed	49	45	56	60	46
Rate of appeal	8.4	12.6	12.1	13.6	11.4

### **3. The role of competition authorities in the formation and implementation of other policies**

#### **3.1 Overview**

41. In order to have competitive market economy to be firmly rooted, the KFTC has put continuous efforts to improve anti-competitive regulations in the government. The roles of KFTC can be classified into activity to prevent new implementation of anti-competitive regulations and an activity taking subsequent measures to improve implemented regulations.

#### **3.2 Review and consultation of anti-competitive bills**

42. To prevent establishment of new anti-competitive regulations, the KFTC obliges other government agencies to have prior consultation with the KFTC when they legislate or revise anti-competitive regulations or impose administrative measures containing anti-competitive aspects. In the process of prior legislative consultation the KFTC reviews the provision and proposes its comments for correction to the related government agencies concerning: whether the individual provisions by statutes are in conflict with the Monopoly Regulation and Fair Trade Act; determination of price and trade conditions; restriction on entry into market or on business activities; and whether the provisions governs anti-competitive aspects such as cartels. In addition, the KFTC has worked hard so that its comments would be accepted as fully as possible throughout legislative process including review by the Office of Regulation, the Vice-Ministerial Meeting and the Cabinet Meeting.

43. In 2013 the KFTC put forward its comments on 15 regulations containing anti-competitiveness out of 1,679 government bills under consultation process, and its comments were reflected into 12 bills.

#### **3.3 Improvement of anti-competitive regulations of other government agencies and local governments**

44. The KFTC has worked on to improve entry regulations continuously since 2009 under its clear recognition that in order for the Korean economy to become an advanced market economy, conversion into a competition-promoting market structure after streamlining anti-competitive regulations is urgently needed. After hearing from experts and conducting its market analysis, the KFTC selected project plans for improvement and requested professional research institutions to conduct research on the proposed plans. In particular in 2013, the KFTC has focused on improving economic vitality through easing burdens on

businesses and increasing consumer convenience and benefits, and enhancing competitiveness in key service sectors including broadcasting and medical sectors.<sup>6</sup>.

45. Meanwhile the KFTC has actively suggested comments on anti-competitive local statutes such as discriminatory regulations, restrictions on business activities, and restrictions on entry into market among local governments' municipal ordinances and municipal rules to be revised or amended. In 2007 and 2008 two times of researches found out a total of 1,252 anti-competitive municipal ordinances and rules and as of the end of 2013 the rate of improvement stood at 87.7%. In 2013 the KFTC got a research institute to review anti-competitiveness of about 98,000 ordinances and rules revised or amended since 2008 and in newly found 2,134 local statutes anti-competitive. Accordingly the KFTC plans to improve such statutes as fast as possible after receiving comments from related organisations.

### **3.4 Competition Assessment**

46. Competition Assessment is to find out alternatives that can efficiently accomplish the regulatory goals while minimising the regulations' adverse impact on competition, by analysing and evaluating the impact of newly adopted or strengthened regulations by the government. In 2007 the OECD announced the Competition Assessment Toolkit and since then the KFTC has used the toolkit as a reference when preparing its own methods for competition assessment fit to situations in Korea. And at the same time, under the revised "Guidelines on regulation impact assessment documents" of the Office of the Government Policy Coordination, it was made into system that the KFTC should conduct competition assessment on newly created or reinforced regulations by government agencies since 2009.

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<sup>6</sup> List of project plans to improve anti-competitive regulations in 2013 is as follows:

Improving business environment :

Streamlining requirements in quality tests of cosmetics of parallel importers(Ministry of Food and Drug Safety) , Solving difficulties in supply of biogas(Ministry of Trade, Industry and Energy), Exemption of medical products wholesale consignor's obligation to hire a pharmacist(Ministry of Health and Welfare), Expanding the scope of authentications allowed to be used for advertisements on foods etc.( Ministry of Food and Drug Safety)

Enhancing consumer convenience and benefit :

Increasing the number of financial institutions subject to sharing of administrative information(Ministry of Security and Public Administration), Easing regulation limiting extra options when parceling out apartment houses(Ministry of Land, Infrastructure and Transport) , Adding rehabilitation aid tools and increasing facilities installing and fixing the tools(Ministry of Employment and Labor)

Raising competitiveness of broadcasting and medical services :

Improving regulations on market share of cable broadcasting(Ministry of Science, ICT and Future Planning) , Improving regulation on broadcasters' ownership of affiliated PP(Ministry of Science, ICT and Future Planning), Easing regulations limiting PP sales amount(Ministry of Science, ICT and Future Planning), Easing regulation on restricting channel leasing by cable broadcasting and satellite broadcasting(Ministry of Science, ICT and Future Planning), Improving regulations on broadcasting advertisement(Korea Communications Commission) , Expanding the scope of incidental facilities of medical corporations(Ministry of Health and Welfare)

Streamlining unreasonable regulations :

Abolishing quality authentication system for cultural products (Ministry of Culture, Sports and Tourism), Improving regulations on regional business license of cable broadcasting (Ministry of Science, ICT and Future Planning), Abolishing price approval scheme on products sold in the Independent Hall (Independence Hall)

47. In 2013 the KFTC has reviewed a total of 580 bills and proposed its opinion that 15 regulations were anti-competitive. Eight out of the 15 regulations were withdrawn or improved in the course of the Regulatory Reform Committee's evaluation or re-review process by the competent authorities. (reflection rate of the KFTC's comment was 53.5%)

#### **4. Resources of competition authority**

##### **4.1 Organisation and number of employees**

48. Through the reorganisation in Sep 2013, the bid-rigging investigation division was newly installed, and as regulations on illegal multi-level marketing scheme were toughened the Installment Transactions Division was set up after separating works related to installment transaction from the works of the Special-type Commerce Division. Based on the reorganisation, as of June 2014 the KFTC has 5 bureaus, 3 Director General (including General Counsel, legal advisors, and Director General for Planning and Coordination), one Spokesman, 11 Directors, 5 regional offices and 529 staff members.

##### **4.2 Annual budget**

49. Estimated expenditure under the jurisdiction of the KFTC in the fiscal year 2013 was 93.3 billion won, a 6.7% increase year on year. As such the increase in the estimated expenditure compared to the previous year was in part due to newly launched programs for supporting relocation of the government office building to Sejong City and increase in contributions to the Korea Consumer Agency and others.

**Table 7. Current state of affairs concerning KFTC staff and its budget**

	Number of employees	Budget expenditure (100 million won)
2013	529	933
2012	519	846
2011	514	788
2010	493	710
2009	493	729