

Unclassified

DAF/COMP/GF/WD(2013)54

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

27-Feb-2013

English - Or. English

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE

Cancels & replaces the same document of 14 February 2013

## Global Forum on Competition

### COMPETITION ISSUES IN TELEVISION AND BROADCASTING

#### Contribution from Korea

-- Session II --

*This contribution is submitted by Korea under Session II of the Global Forum on Competition to be held on 28 February and 1 March 2013.*

JT03335430

Complete document available on OLIS in its original format

*This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.*

DAF/COMP/GF/WD(2013)54  
Unclassified

English - Or. English

## COMPETITION ISSUES IN TELEVISION AND BROADCASTING

-- Korea --

### 1. TV/Broadcasting Competition in Korea

#### 1.1 Overview

1. Korean consumers can choose from a pool of TV/broadcasting choices offered by 5-6 pay-TV service operators, including cable TV operators, satellite broadcasters and IPTV operators. Previously, when only cable system operators (SOs) provided services, the market in the country was not very competitive. However, with the launch of satellite broadcasting in 2000 and IPTV in 2008, Korean consumers are now able to benefit from a true choice in the market. Currently, in each region of the country, people can choose from the services of at least 5 to 6 different providers, including one cable TV operator, three IPTV operators, and one satellite broadcaster.

2. Price competition in the Korean TV/broadcasting market is therefore vigorous in terms of pay-TV subscription fees and advertisement charges to increase membership, deterring excessively high prices. However, low-cost competition means a decrease in providers' profitability, and thus a potential decline in the quality of services and less resources for innovation and investment.

3. Due to the socio-cultural influences of the media, each broadcasting operator must receive government approval to operate. Market entry regulations may exist in some broadcasting areas where permission is required to launch a business such as news media, home-shopping, terrestrial broadcasting, and SOs, whereas in other areas, such as the case of programme providers, no such regulations exist. Korea has been deemed to have fewer competition-restrictive aspects in its TV/broadcasting entrance regulations and in its consumers' rights to choose services.

#### 1.2 Effectiveness of Current Regulations

4. Korea's current legal system recognizes each type of broadcasting service separately when imposing regulations. This has resulted in potential problems in terms of disproportionate regulations between services and a lack of room for the adoption of new converged services. The country's inequality in intra-industrial relationships also holds back industry growth to some extent. In response to this phenomenon, Korea is exploring ways to improve broadcasting programme production and distribution as a means of strengthening the broadcasting market. It is also in the process of setting up an institutional framework capable of remedying unfair and unreasonable practices.

### 2. Main TV/Broadcasting Competition Issues

#### 2.1 New Technology & Environmental Change

5. Korea's broadcasting industry has been undergoing transformational changes—internet and TV service convergence, and a shift from the traditional TV business model based on a vertically-integrated distribution network to a more individualized programing-based model. In line with the combination of

conventional services and the emergence of new services, Korea has become increasingly aware of the growing need to reform its legal infrastructure in order to ensure fair competition. Korea therefore plans to integrate the dual broadcasting regulations of the country so as to establish a single comprehensive act for broadcasting and telecommunications, while continuing with its competition enforcement.

## **2.2 Corporate Vertical Integration**

6. Media companies' (platform) vertical integration has raised more competition issues. Media companies are allowed to own a programme provider, and in some cases have demanded to ease ownership-related regulations. However, some vertical combination cases tend to impede other non-vertically-tied normal programme providers from entering the market. Examples are when a multiple SO unites with a programme provider or a terrestrial broadcaster's affiliate joins the pay-TV market. There are also many channels that programme providers are obliged to air, such as public channels, which poses another difficulty for individual small programme providers when entering the market.

7. Cross ownership among media companies has also become an issue. Although system operators, satellite broadcasters, and IPTV operators are competing in the same market, they have to face different sets of regulations—the Broadcasting Act for SOs and satellite broadcasters; and the IPTV Act for IPTV operators—which results in fairness issues. The Broadcasting Act, for instance, limits cross-shareholding between broadcasters at 33% or lower but the IPTV Act has no such limit. The Media Act, approved in 2012, allowed newspaper companies to launch broadcasting services, and in the same year, newspaper company-owned channels began providing services. This has raised potential competition issues among existing programme providers.

## **2.3 Content Access & Efficient Frequency Allocation**

8. In order to take its first steps into the broadcasting market, an enterprise first needs to ensure access to its communication services and programme content. However, since exclusive rights to content are at the heart of its business model, this can also undermine competition. Currently, in Korea, business relations, such as channel transmission contracts between media platform operators like SOs and programme providers, are decided by the broadcasting market. For the moment, there is very little concern in Korea about exclusive contents that might interfere with platform success. Programme supply suspension or rejection and the restrictive imposition of conditions are subject to the Fair Trade Act or a broadcasting-related act's fair trade provisions.

9. In a situation where new technologies like IP-based media services, including IPTV, N-Screen, real-time streaming, and VoD, undermine the traditional TV broadcasting business model, frequency allocation has been proposed as a possible solution. Korea is now allocating frequencies by permission. While frequency allocation may improve the traditional TV broadcasting (terrestrial) service environment, new media services combining conventional TV broadcasting and new technologies rely on different networks (radio frequency [RF] and internet protocol [IP]). For this reason, it does not appear as if frequency allocation will help ease business model-related competition issues in any direct way.

## **3. Competition Enforcement**

### **3.1 Legal Framework**

10. Cartels or any abuse of market dominance are now subject to the Fair Trade Act in Korea. Boycotts, exclusive dealing contracts, and product bundling are regulated by the Fair Trade Act or Broadcasting Act, which both introduced provisions to ban such conduct in 2011. Therefore, both the Korea Fair Trade Commission (KFTC) and the Korea Communication Commission (KCC) have jurisdiction over overlapping unfair trading practices. If a certain broadcasting company tries to pursue a

merger, it should obtain a license or permission for such a change from the KCC. Alternatively, it should register with the KCC, while at the same time undergoing a corporate merger review by the KFTC under the Fair trade Act.

11. Korea's broadcasting-related Acts, together with the Fair Trade Act, regulate the following unfair trading practices: boycotts in relation to channels and programmes, contract dealings based on restrictive conditions, unfair transaction coercion and transaction discrimination. Other regulated practices include sales bundling to sell products combining TV and internet broadcastings and telecommunication services; limitations on—or suspensions or rejections of—access to essential facilities for broadcasting service provisions; and changes to channel arrangements. Attempts to delay or deny profit sharing, hinder viewing of other broadcasters' channels, or obstruct service contracting with other broadcasters are also punishable through these Acts.

### **3.2 *Coordination of Regulation Overlap***

12. To prevent any overlap in punishment, if one of the two agencies imposes an action in relation to a specific unfair trading practice, the other agency cannot regulate the same case. If the KCC intends to impose a fine, the organisation must consult or inform the KFTC. When a broadcasting operator violates the Fair Trade Act, the KCC must also inform the KFTC.