Working Party No. 2 on Competition and Regulation

REGULATION AND COMPETITION ISSUES IN ROAD TRANSPORT

-- Korea --

This note submitted by the Delegation of Korea to the Working Party No. 2 FOR DISCUSSION at its next meeting on 27 October 2000.
Road Transport Regulations and Competition Issues

KOREA

1. Introduction

1. Road transport served well in Korea as the artery of the economy, underpinning a rapid economic growth during 1960s and 70s when the government drove the economic development. As of 1998, the road transportation sector took up 82.0% and 92.1% of total passenger and cargo transits.

2. Until recently, various government regulations in this area made competition virtually impossible, which gave rise to inefficiencies. The dramatic surge in the number of passenger cars further deteriorated the situation, pushing up logistics costs and thereby significantly undermining the competitiveness of the country. In response to this problem, the government has constantly taken steps to promote competition and achieve regulatory reforms to remove inefficiencies in the road transport sector. Regulations to which regulatory authorities could not offer justifications were either abolished or eased. Regulatory reforms are still pursued in this sector, spearheaded by the Korea Fair Trade Commission (KFTC) and the Regulatory Reform Committee. Among the deregulation tasks at hand, what drew the greatest attention of the KFTC was the road transport, in particular, the road freight service sector.

3. Many of the regulations in this field remain in place, and it has been only one year since regulatory reforms began in the road freight service sector. Thus, it is premature to render judgement on the outcomes of the regulatory reforms. However, it is expected to make a substantial contribution to sharpening Koreas competitive edge, by enhancing efficiency and quality of service. This paper is intended to shed light on the regulatory regime, market situation, regulatory reforms, and competition issues in the road transport sector.

2. Regulatory Regime

Agency responsible for developing and/or implementing policies relating to road freight/road passenger/taxi regulation and the current status of related industry associations

4. The Ministry of Construction and Transportation (MOCT) is responsible for handling regulations in the above fields. The MOCT has been enforcing the Passenger Car Transport Service Act and the Freight Car Transport Service Act.

5. Industry associations in these fields are formed by enterprises belonging to each sector and are purely private organizations. The government does not have an ownership interest in these groups.

Regulatory requirements that must be satisfied by a firm wishing to provide services and the status of regulations involving the granting, time limit, and transfer of licenses

6. Since July 1999, only registration instead of license is needed to provide road freight transport services. Thus, meeting certain conditions stipulated under the Freight Car Transport Service Act, such as the number of cars, amount of capital, and the size of car storage place, would be sufficient to initiate operation in these sectors. The shift to the registration requirement itself represents that market supply and demand will be ignored. Therefore, there are no prior limits placed on operators or number of registered
cars. In addition, there are no institutional devices that allow incumbent firms to affect the entry of new rivals. Individuals are entitled to register for individual freight and delivery freight car services in addition to ordinary freight. All the transport-related registrations are transferable to other persons and places. There are no time limit placed following the registration.

7. With respect to buses and taxis, stricter requirements are in place for entry compared to those of the road freight transport, taking into account the public nature of the transportation modes concerned. First, the road passenger sector (buses) can be roughly divided into the regular carrier service following designated routes and demand responsive service rendered within certain zone. The former is subject to rigorous regulations. Market supply/demand is taken into account in granting licenses or registrations with respect to route-based services including inter-city or municipal buses. On the other hand, zone-based services require registration only, ignoring the supply and demand situations and thus allowing for an easier entry. Second, licenses must be obtained to render taxi services, whether the services are provided by corporation or individual. The granting of licenses is subject to stringent regulations. One vehicle operator can receive several licenses and individuals are also entitled to obtain them. There are no time limits placed following the granting of licenses.

Regulatory restrictions on the provision of new services or the expansion of existing services and the rendering of taxi services.

8. A fresh license is required to provide new services or expand existing services. The licensing authority takes demand into account before granting a license. There are no official procedures for hearing the views of operators already in the market in granting a license. However, in considering the demand, references could be drawn from the financial standing of the existing carriers or the forecast for market demand. Constraints for withdrawing from the provision of a service are less strict than those placed on the entry. Such withdrawal requires administrative procedures, such as the authorization of or reporting to administrative offices.

9. In the case of taxi services, there is no regulatory distinction made between taxis that can be hailed on the street and taxis ordered by phone. The form of service is determined at discretion by the operator. Taxi regulation involving the fee and the time of service differs municipality from municipality. Based on the size and comfort criteria, taxi services are divided into small-size, middle-size, large-size, comfort, and luxury categories.

Regulatory controls on prices and/or quality of services

10. Prices in the road freight services sector are liberalized and are voluntarily determined by market supply and demand. There is no price ceiling or floor imposed by the government. When a related industry association set the standard for prices, this can be subject to sanctions pursuant to the provision banning certain acts of trade associations under Korea's competition law.

11. In the case of passenger services and taxi, taking their public nature into account, prices are determined within the range set by the central government or local autonomous bodies and are reported by the service provider concerned. However, since the rendering of the zone-based bus transport service requires registration only, prices are charged voluntarily by each service provider, given the relatively easy market entry.
Controls on international trade in road freight/passenger services

12. The Korean Peninsula is surrounded by sea, except its Northern part, and this geographic characteristic makes international trade through the road transport impossible. International transportation of passengers and freights takes place by air and sea. In offering road transport services, foreign companies face no stricter regulations or requirements those imposed on local firms, since this sector is already open to foreigners.

< Shares of Maritime and Air Transportation in the Transit of Passenger and Freight in International Trade (As of 1998)

<table>
<thead>
<tr>
<th></th>
<th>Maritime</th>
<th>Air</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger</td>
<td>3.7%</td>
<td>96.3%</td>
</tr>
<tr>
<td>Freight</td>
<td>99.7%</td>
<td>0.3%</td>
</tr>
</tbody>
</table>

3. Market Structure

13. As of Dec. 1999, there were 5,876 ordinary freight carriers (152,061 vehicles), 36,782 individual freight carriers, 350 delivery freight carriers, and individual operators (38,732 vehicles) in operation. As of Dec. 1999, the number of registered freight vehicles stood at 2.32 million, with 2.09 million private freight vehicles (91%) and 0.23 million commercial freight vehicles (9%). Private and commercial vehicles accounted for 78% and 22% of transportation, respectively. Private freight vehicles that have low transportation efficiency are ten times greater in number than commercial ones, primarily due to the entry restriction placed on freight vehicle. Such restriction led to the increase of private freight vehicles owned by ordinary manufacturers or service providers, and has contributed to the inefficient logistics system in Korea. However, the number of new entrants has been on the rise, since registration was newly adopted as the entry requirement in the road freight sector. For example, in the first half of this year, the number of ordinary freight carriers went up from 5,876 to 6,114 (4.1% increase), and the number of registered vehicles up from 152,061 to 159,809 (5.1% increase).

14. As of Jan. 2000, the road passenger transit fleet consisted of 251 municipal bus operators (22,949 vehicles), 119 inter-city operators (10,289 vehicles), 163 rural bus operators (7,040 vehicles), 508 mini-bus operators (3,263 vehicles), 874 chartered bus operators (17,818 vehicles), 1,793 taxi companies (90,325 vehicles), and 135,639 individually operated taxis. The growth of private vehicles, traffic congestion, and expansion of subways have led to the annual decrease in the users of road passenger services. More specifically, the portion of bus in passenger transportation in 1999 declined by 27.5% compared to the figure in 1990. In the case of taxis, the portion constantly increased until 1992, but has been going down since 1993. In 1998, the portion contracted by 12.4% compared to its peak in 1992.

4. Regulatory Reform and Competition Issues

15. With respect to road freight transit, the licensing requirement was replaced by registration in July 1999 (the service can be rendered if certain conditions are met) in the face of stiff opposition from incumbent road freight operators that already acquired licenses. The KFTC kept a close eye and conducted reviews on this issue and as a part of its deregulation efforts, and made recommendations for reforms several times to regulatory authorities. The licensing requirement prompted some local autonomous bodies to suspend the granting of licenses for several years, citing oversupply. This resulted in the significant
premiums on existing licenses and other serious problems of market distortion. Eventually, the regulatory reform plan put forward by the KFTC was accepted by the MOCT and was approved by the Economic Deregulation Committee in Nov. 1995, which led to the amendment of relevant law in 1997. In July 1999, registration was newly adopted as a condition for initiating the business, with a two-year grace period. The types of the road freight services were also streamlined from six to three. Effective from Jan. 1, 2000, the registration condition involving the number of freight vehicles was additionally loosened, from more than 25 to 5. As a result, there are in effect no entry regulations in this sector.

16. Concerning the road passenger and taxi services, regulations are being phased out in each area. In 1993, the requirement for providing chartered bus services shifted from license to registration. In Aug. 1998, the requirement to operate only in new vehicles (in use for 6 months or less for passenger vehicles, 2 years for buses) when obtaining new licenses or filing new registrations was repealed. This year also witnessed wide-ranging reforms. Licensing requirement for mini-bus (buses travelling relatively short distances, such as towns in high areas or apartment complexes) operation was replaced by registration. In the past, fees of inter-city buses were subject to the approval of relevant authorities, but now carriers have only to file a report on prices. Regulations related to business operations were abolished as well, such as the Criteria for the Structure, Devices, Facilities, etc. of Vehicle and Acquisition of 20% of Reserve Vehicles.

17. The regulatory reforms implemented to date produced tangible results, in terms of promoted competition, reduced prices, and increased employment thanks to the increase in operators. Taxi services are the case in point. Even though the entry into the sector is severely restricted by the licensing requirement, the policy of expanding the supply of taxis was pursued for the sake of enhancing citizens convenience. As of 1999, the number of population per taxi was significantly low, compared to those of major metropolis in foreign countries. More specifically, the figure for Seoul was 147, while those of Tokyo, Paris, London, and New York stood at 221, 379, 453, and 624, respectively.

18. In July 1997, the road freight services were fully liberalized. This measure is expected to bring about substantial benefits in terms of market entry, price, quality of service, etc.

Application of Competition Law in the Road Transport Services Sector

19. Currently, the Monopoly Regulation and Fair Trade Act (MRFTA), Korea's competition law, does not provide for exemptions in the road transport sector. As such, the services are covered by the MRFTA just as other industries. However, there are in effect few rooms for the application of the MRFTA, since the MOCT, the regulatory authorities, and local autonomous entities imposed far-reaching regulations regarding the entry, prices, and other business operations in this sector, pursuant to relevant laws. Still, the KFTC is expected to play a growing role in this regard, since rapid regulatory reforms are undertaken, centering around the road freight services, on entry and prices. The KFTC has been paying a keen attention in the reforms, focusing on anti-competitive conducts that may arise in the process of liberalization.

Examples of Mergers and Horizontal Arrangements

20. Since road passenger vehicles and taxi operators are relatively small in scale, there have been no cases of M&As meeting the reporting condition for business combination under the MRFTA. However, with regard to the road freight services, there were 10 M&A review cases in the recent three years, 2 in
In examining the proposed business combinations, the scope of geographic market was determined to be national. This was because the road freight transit services offer nation-wide coverage without restrictions on operation territories and in effect operate as such. All the M&A cases concerned involved negligible market shares and had no anti-competitive effects. Thus, the KFTC did not ban or propose remedies concerning these business combinations.

In the area of charted bus service with a liberalized fee regime, a price fixing scheme by 4 chartered bus carriers in the Taejon Metropolitan City was uncovered in July 1999, which led to the corrective order. This involved the increases in bus fees, twice, by the operators concerned, as their situations worsened following the decline in the demand for chartered buses. In addition, the KFTC detected another price fixing by 6 charter bus associations at the municipal and provincial levels and imposed surcharges accordingly. The cartel involved the fixing of fees for carrying secondary school students on their field trips, based on destination, and imposing voluntary penalties on members that failed to follow this agreement.