

**DRAFT AGENDA**

**OECD/Korean Policy Centre**

**Workshop on “Merger Review Procedures and Joint Ventures”**

**MOFCOM - Beijing, 25 June 2014**

9.00 – 09.40	<p><b>Opening Remarks and Introduction of the OECD/Korea Policy Centre</b></p> <ul style="list-style-type: none"> <li>– Mr. Zhu Zhongliang (Director of Anti-Monopoly Bureau, MOFCOM)</li> <li>– Mr Kyeoung Man Lee (Director-General of the OECD/Korea Policy Centre, Competition Programme)</li> <li>– Mr Antonio Capobianco (Senior Competition Expert, OECD)</li> </ul> <p><b>Introduction of the OECD/Korea Policy Centre (5 min)</b></p> <ul style="list-style-type: none"> <li>– Ms Hee-Eun Jeong (Director, OECD/Korea Policy Centre, Competition Programme)</li> </ul> <p><b>Photo Session (10 minutes)</b></p>
9:40-11:20	<p><b>Panel discussion on Comparison of Procedures for Merger Review</b></p> <p><u>Moderator:</u> Mr Antonio Capobianco (Senior Competition Expert, OECD)</p> <p><u>Speakers:</u> Mr. Michael Albers (EU) Mr. Andrew Heimert (US FTC) Mr. Sun Miao (Antimonopoly Bureau, MOFCOM) Mr. Sangmin Song (KFTC)</p>
11:20-11:40	<b>Tea Break</b>
11:40-12:20	<b>Discussion and Q&amp;A</b>
12:20-14:00	<b>Lunch</b>

14:00-15:40	<p><b>Panel discussion on the Assessment of Joint Ventures</b></p> <p><u>Moderator:</u> Mr. Zhu Zhongliang (Director, MOFCOM)</p> <p><u>Speakers:</u> Mr. Michael Albers (EU) Mr. Andrew Heimert (US FTC) Mr. Yang Jianhui (Antimonopoly Bureau, MOFCOM) Mr. Yongho Shin (KFTC)</p>
15:40-16:00	<b>Tea Break</b>
16:00-16:40	<b>Discussion and Q&amp;A</b>
<b>16.40 – 17.00</b>	<p><b>Closing remarks</b></p> <ul style="list-style-type: none"> <li>– Mr. Zhu Zhongliang (Director of Anti-Monopoly Bureau, MOFCOM)</li> <li>– Mr Kyeoung Man Lee (Director-General of the OECD/Korea Policy Centre, Competition Programme)</li> <li>– Mr Antonio Capobianco (Senior Competition Expert, OECD)</li> </ul>

Annotation to the Agenda

**Panel discussion on Comparison of Procedures for Merger Review**

After a brief overview of OECD and ICN international best practices on merger review, the Panel will offer an overview of agencies' main transparency and fairness obligations towards the **merging parties**. In particular, panellists will provide the perspective of their own jurisdiction on questions such as:

- 1) At what stage(s) of the merger review the agency must inform the merging parties of possible competition concerns?
- 2) What amount of evidence must be disclosed to the merging parties by the agency to support its concerns/case?
- 3) At what stage(s) in the procedure the parties can rebut the agency's concerns?
- 4) Does the agency have to publishing a reasoned decision if it intends to approve the merger, block it or approved it with conditions? What is the minimum content of such a decision? What is its scope?

The Panel will then discuss of the role of **third parties** (competitors and consumers) in merger review and of their procedural rights. In particular, the panellists will provide the perspective of their own jurisdiction on questions such as:

- 1) Are third parties informed about the development of the case? Does the agency disclose its concerns about the merger with their parties? If it does, at what stage(s) in the review process does this happen?
- 2) Are third parties heard during the review process? Can they provide information and opinions about the merger?
- 3) What is the role (if any) of third parties in designing and testing effective merger remedies?
- 4) Do third parties have standing to appeal a merger decision? If yes, what grounds of appeal do they have?

#### **Panel discussion on the Assessment of Joint Ventures**

The Panel will discuss how Joint Ventures (JVs) are analysed under their own jurisdiction, and in particular they will address the following questions:

- 1) Are JVs subject to merger control? If yes, in which circumstances?
- 2) Does your jurisdiction distinguish between JVs that qualify as “merger transactions” and those that do not qualify and would be considered “restrictive agreements?”
- 3) What is the standard of review of JVs? How are the “structural” and “coordination” aspects of JVs assessed?

#### Speakers

##### **Mr. Michael Albers**

Mr. Michael Albers currently advises competition authorities in Europe and Asia on competition policy and competition law enforcement strategies as well as individual cases. He also gives lectures on competition law to master students at the universities of Berlin, Saarbrücken (DE) and St. Gallen (CH).

He was a member of the European Commission’s Directorate-General for Competition in Brussels from 1990 until 2008. Subsequently, he exercised the function as Hearing Officer for EU competition proceedings until his retirement in 2013. Prior to joining the European Commission, he worked for the German competition authority, the “Bundeskartellamt”. He joined the Merger Task Force of DG Competition as a National Expert and remained there through 1993, when he became Principal Administrator for Antitrust Coordination, serving in that post in 1994-1995. Subsequently, he became Deputy Head of Unit for General Competition and Policy Coordination (1995-1998), and then became Head of Unit, Energy, Water & Steel in 1998, where he remained until 2003. From

2003-2006 Mr. Albers served as Head of Unit for Antitrust Policy, followed by an appointment as Head of Unit, Antitrust Telecoms in 2006 until the Commission appointed him as Hearing Officer in 2008.

**Mr. Antonio Capobianco**

Antonio Capobianco is a Senior Competition Expert with the OECD Competition Division. In this position he is responsible for the proceedings of the Working Party No. 3 of the OECD Competition Committee which focuses on International Co-operation and Antitrust Law Enforcement. At the Competition Division, Mr Capobianco has coordinated a series of OECD projects and work streams, including the development of the 2009 Guidelines for Fighting Bid Rigging in Public Procurement and the related OECD Council Recommendation of 2012, the work on transparency and procedural fairness, on SOEs and competitive neutrality, and most recently he has been leading the work on international enforcement co-operation. He has authored numerous Background Notes of the Secretariat on a variety of competition law enforcement and policy topics.

Prior to joining the OECD in 2007, Mr Capobianco was a Counsel in the Competition Department of WilmerHale LLP, based in Brussels. He also spent three years with the Italian Competition Authority. Mr Capobianco authored several articles on antitrust issues published on major international law journals specialized in competition law and he co-authored textbooks on Italian and European competition law and economics. He regularly speaks at international conferences on antitrust and regulation issues. Mr. Capobianco graduated in law at the L.U.I.S.S. - Guido Carli in Rome and holds LL.M. degrees from the Law School of the New York University and from the Institute of European Studies of the Université Libre de Bruxelles.

**Mr. Andrew J. Heimert**

Mr. Andrew J. Heimert is Counsel for Asian Competition Affairs in the United States Federal Trade Commission's Office of International Affairs. He is responsible for the FTC's relationships with competition agencies in China, Japan, Korea, and several other Asian jurisdictions. He is also responsible for international intellectual property issues, and works frequently on projects for the International Competition Network's Unilateral Conduct Working Group.

Mr. Heimert previously was the Executive Director and General Counsel of the Antitrust Modernization Commission, a bipartisan Commission created by Congress to study and report on the antitrust laws and recommend appropriate changes to Congress and the President. He has also worked on a variety of antitrust policy issues and investigations at the FTC as an attorney in the FTC's Office of Policy and Coordination. Prior to his work in government, Mr. Heimert was an attorney at Covington & Burling, from 1997 to 2001, where he practiced antitrust and litigation. Immediately following law school, Mr. Heimert clerked for Richard S. Arnold, Chief Judge for the United States Court of Appeals for the Eighth Circuit.

Mr. Heimert received his J.D. from Yale Law School in 1996. He received his A.B. from Stanford University in 1993.

**Mr. Yongho Shin**

Mr. Yongho Shin is the Deputy Director of the M&A Division of the Korea Fair Trade Commission. He joined the Commission in 2010 as the Deputy Director of the International Cooperation Division, a position that he held until taking up the duties of the Deputy Director of the Chairman's Office in 2012.

Mr. Shin holds a Bachelor's degree in Economics from the Seoul National University.

**Mr. Sangmin Song**

Mr. Sangmin Song is leading the M&A Review Division of the Korea Fair Trade Commission, whose main responsibility is to review all M&A notifications filed at the KFTC.

He has worked for the KFTC in the area of antitrust for 20 years. For 2010-2013, he was seconded to UNCTAD, where he acted as an expert to develop and implement technical assistance projects on competition and consumer protection policies, especially for developing countries in the East Asia region. During his service in the KFTC, he has dealt with many high profile cases covering M&As and abuse of dominance in the IT and retail industry among others. He holds a doctoral degree in Economics from Warwick University in the UK.