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ISSUES – Contribution from Korea****- Session IV -**

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This contribution is submitted by Korea under Session IV of the Global Forum on Competition to be held on 7-10 December 2020.

More documentation related to this discussion can be found at: [oe.cd/mktcomp](http://oe.cd/mktcomp).

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## *Using market studies to tackle emerging competition issues*

### **- Contribution from Korea -**

#### **Korea Fair Trade Commission (“KFTC”)**

##### **1. Summary**

1. The Korea Fair Trade Commission (“KFTC”) has conducted market studies on a total of 33 industries from 2008 to 2020, and the findings and recommendations have been mostly used to identify and improve regulations that restrain competition.
2. In the case of the liquor industry, based on the market studies in 2010 and 2016 respectively, the KFTC improved anti-competitive regulations by easing the requirements for license of beer manufacturing facilities and designation of tax-paying bottle cap manufacturers. The KFTC also increased the ceiling on the manufacturing facility size for small-scale beer businesses. As a result, small- and medium-sized businesses could enter the beer market where large companies dominated, and competitiveness of the liquor industry has been enhanced through encouragement of business activities. In addition, as alcoholic beverages such as craft beer diversify, consumers have come to have broader choices.
3. In the case of the air passenger transport industry, based on the market analysis in 2018, the KFTC improved regulations such as license to operate air transport service which unreasonably hindered the entry of new carriers. This helped three companies newly acquire the license. For the moment, due to a drop in demand for air passenger transport amid COVID-19, it is difficult to evaluate the competition promoting effects of the regulatory improvement. However, in the long term, it is expected that various effects such as decrease in airfares, diversification of services, and improvement of quality will occur if the demand for air passenger transport increases after the COVID-19 pandemic is over.
4. In the case of the school uniform industry, through market studies in 2015, the KFTC suggested introducing short- and long-term plans for the “school-managed uniform purchasing system” in consultation with the Ministry of Education. As a result, the recurring conduct of disrupting competition among school uniform businesses has been prevented and competition has been promoted.

##### **2. Market study overview and process**

5. Based on Art. 3<sup>1</sup> of the Monopoly Regulation and Fair Trade Act (“MRFTA”), the KFTC plays a pivotal role of not only enforcing the competition law but also spreading competition culture in each industry. In detail, the KFTC has conducted studies on market structures in order to analyse market concentrations and competition issues every other year.

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<sup>1</sup> Article 3 of the Monopoly Regulation and Fair Trade Act stipulates that the KFTC shall establish and implement action plans to promote competition in markets in which monopoly or oligopoly situations have continued over an extended period in relation to supply or demand of specific goods or services, and in order to do it, the KFTC shall survey the market structures and publish survey findings.

The KFTC selects industries where new competition issues could be raised due to existing laws and institutions restraining competition. A total of 33 industries were selected between 2008 and 2020, and the KFTC conducted the in-depth market analysis on those industries. On the basis of market analysis, the KFTC has promoted competition by easing and/or improving regulations that stifle competition, rapidly responding to newly raised competition issues.

**Table 1. KFTC's market studies**

Year	Industries	Year	Industries
2008	Air transport, internet portals	2015	Aluminum hydroxide, school uniform
2009	Indemnity insurance, movies, petroleum, medicine, gas	2016	Beer, tug boats, community energy system
2010	Liquor	2017	Railway industry, movies, mobile communications
2011	Cosmetics	2018	Air passenger transport, housing management system, warranty
2012	Online education, digital music, multichannel pay-TV	2019	Broadcasting media, distribution of agricultural products, payment system
2013	Advertising, insurance	2020	Distribution of marine products, ICT-based state certified education, asphalt concrete
2014	Car rental, gas		

### 3. Market study cases

#### 3.1. Liquor industry

6. The regulation on the liquor industry was strict due to the fact that the industry is highly related to taxation and public health. However, the proportion of liquor tax in the total national tax has dropped significantly<sup>2</sup>. Further, there had been a growing need to reform regulations in order to enhance the competitiveness of liquor industry and increase consumer choice. Against this backdrop, the KFTC conducted market studies on the liquor industry in 2010, and based on the findings, the KFTC eased regulations that hindered market entry and business activities in consultation with the National Tax Service.

7. As an exemplary improvement, the KFTC contributed to easing regulations by lowering the liquor manufacturing facility standards required to obtain liquor manufacturing licenses. In the case of beer, manufacturing facility standards were lowered from 1,850 kl or more (3.7 million bottles in terms of 500 ml bottle) to 100 kl or more (200,000 bottles), and in the case of soju (Korean distilled spirits), from 130 kl or more (360,000 bottles in terms of 360 ml bottle) to 25kl or more (69,230 bottles). In consequence, small- and medium-sized companies entered the beer market where large companies dominated, and this has promoted competition.

<sup>2</sup> In the 1960s, liquor tax revenue accounted for about 10% of the total tax revenue, but in 2009 it fell to 1.7%.

8. Another successful example is that the KFTC played an essential role of relaxing requirements to be designated as a manufacturer of liquor bottle cap for taxation<sup>3</sup>. In the case of market for liquor bottle cap for taxation, the requirements to be designated as a manufacturer were so strict under the Liquor Tax Act that there existed only two manufacturers. The Korean government eased the requirements by abolishing provisions requiring more than one year of manufacturing experience, and lowering the standards of manufacturing facilities to a half level. As a result, two manufactures were newly designated as liquor tax-paying bottle cap manufacturers, and the price of the bottle cap decreased by 12% as the structure of market shifted from a duopoly to a competitive one.

9. After that, as the beer market accounts for the largest portion of the domestic liquor industry and maintains a monopolistic structure, the KFTC held that regulatory reform would be needed. Therefore, the KFTC conducted market studies on the beer market in 2016, and based on the findings, identified and improved anti-competitive regulations through consultations with the National Tax Service.

10. For example, regulations to restrict distribution channels and the size of manufacturing facilities of small-scale beer businesses<sup>4</sup> were eased. This has helped small-scale beer businesses distribute their products through retail stores such as super markets and convenience stores. Also, the ceiling on manufacturing facilities for small-scale beer businesses has been raised to 120 kl from less than 75 kl<sup>5</sup>.

11. As described above, the KFTC's improvement of anti-competitive regulations in the liquor industry has promoted market entry and competition, and enhanced competitiveness of the industry. When it comes to the beer market, in particular, as small-scale operators, which had been restricted by unreasonable regulations, can now perk up business activities and diversify products such as craft beers, consumers' choice has increased.

### 3.2. Air passenger transport industry

12. The domestic air passenger transport industry is an area which requires huge capital and thus inevitably entails a monopolistic market. The combined market share of the top 3 air passenger transport companies is 82.5%.

13. The KFTC viewed that it was necessary to conduct an in-depth analysis on the effects of government regulations related to air passenger transport such as license requirements and route-specific permit systems. Also, as the public showed greater interests in air travel in the wake of increased demands for travel, the KFTC selected the air passenger transport industry as the target for market studies in 2018.

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<sup>3</sup> It refers to a bottle cap with a mark certifying that liquor tax has been paid, and under the related laws, the bottle cap must be manufactured by a person designated by the Commissioner of the National Tax Service.

<sup>4</sup> It refers to business operators who have met the requirements of facilities (0.5 kl or more of filter facility, one simple distiller, etc.) under the Liquor Tax Act and received the license for small-scale manufacturing of alcoholic beverages. They produce craft beer on a small scale and sell it to end consumers or restaurants.

<sup>5</sup> An analysis shows that the increase of manufacturing facility size standards for small-scale beer businesses has the effect of expanding annual output from 900 kl to 1,440 kl

14. The market analysis revealed that some existing regulations hindered businesses from entering the industry. For example, one of requirements for license to operate air transport service under the Aviation Act was that “the relevant business shall not likely cause excessive competition among business operators”. However, the criteria to determine excessive competition were vague and unreasonably prevented competitors from entering the market. In order to address this, the KFTC came up with measures to promote competition by abolishing the “excessive competition” condition from the license requirements for air transport service providers, and improved relevant regulations through consultations with the Ministry of Land, Infrastructure and Transport. As a result, three companies were able to newly obtain license for air transport providers in 2019.

15. Although it is difficult to evaluate the effects of the regulatory improvement owing to a dropped demand for air passenger transport amid COVID-19, if the demand increases back to a usual level, then effects such as airfare reduction, service diversification and quality improvement are expected to be realized in the long term.

### 3.3. School uniform industry

16. In Korea, since 1985, schools have decided whether students wear school uniforms or not, and in order to address expensive school uniform prices stemming from major school uniform companies’ sales strategies, a school-managed purchasing system<sup>6</sup> was adopted. This has alleviated the high-priced school uniform problems, but companies that could not win a bid for the uniform repeatedly hampered bid winner’s business activities by disseminating false and misleading information about the bid winner’s uniform and, because of this, the winner could not sell the expected quantity.

17. To cope with this problem, the KFTC conducted market studies on the school uniform market in 2015 and came up with short- and long-term plan. The plan intended to improve the school-managed uniform purchasing system to prevent the hindrance of business activities among school uniform companies, which had been a recurring problem every year.

18. According to the short-term plan, a school first receives applications from freshmen those who want to purchase school uniforms through the school-managed purchasing system. After the school confirms the purchase quantity based on the applications, the school selects a supplier through a bid. In this way, the school guarantees the quantity to the winner. Consequently those who failed in bidding would have lowered incentives to hinder the winner’s business and the bid winner’s burden of inventory would be relieved.

19. As a long-term plan, the Korean government is considering a system that allows each school to select a uniform design from 10 to 20 standard designs. If the system is introduced, it would be possible to supply and purchase uniforms through retail stores and online. This would solve the problem of monopoly and allow consumers to purchase school uniforms at reasonable prices and in a wide range of quality anytime.

20. As a result of the KFTC’s efforts to improve the regulations in consultation with the Ministry of Education, the Ministry recommended schools to improve the school-managed purchasing system, and it is expected that the improved system would prevent the hindrance of business activities among uniform businesses.

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<sup>6</sup> It is a system in which school uniforms are supplied all by a company that won a bid arranged by the school. The school concludes a contract only on supply unit price with the bid winner, and the quantity is determined after the contract by receiving application from students.