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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
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**Algorithmic competition – Note by Korea**

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More documents related to this discussion can be found at  
<https://www.oecd.org/competition/algorithmic-competition.htm>

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### 1. . Introduction

1. Platform companies use algorithms in various fields, such as determining prices, providing search results, and intermediating transactions. In general, algorithms have pro-competitive effects as they effectively provide search results to users and match buyers with sellers, facilitating the transaction between the two parties. But on the other hand, they can be used as a means for platforms to engage in anti-competitive conduct, including collusion and monopolization, as they are not easily accessible and understandable to the public.
2. Against this backdrop, the Korea Fair Trade Commission (hereinafter the KFTC) has sanctioned the self-preferencing of platform operators that unfairly leverage and expand their dominance to other markets by manipulating algorithms. Based on the accumulated experience in this process, the KFTC has been making policy and system improvements, like establishing the “Online Platform Review Guidelines” that contain what to consider in legal interpretation.
3. The following paragraphs specifically explain the KFTC's efforts to address issues of algorithms.

### 2. Cases

#### 2.1. Naver shopping case

4. Naver, the number one search engine in Korea, is one of the largest platforms that provides a wide range of services, such as general search, specialized search, open market, content, and intermediary services.
5. The company secretly manipulated its search algorithms in the comparison shopping search results to prefer products sold on its open market and placed them at the top of search results before others. As a result, Naver’s market share in the open market increased significantly.
6. In response, the KFTC decided to impose remedies and a fine of KRW 26.6 billion on Naver in October 2020 for abuse of dominance and engaging in unfair trade practices.
7. This case is significant in that it was the first time in Korea to enforce the law against the self-preferencing of a platform operator, which has a dual role as an intermediary and participant in transactions.
8. However, Naver filed a lawsuit in court against the KFTC, but the Seoul High Court ruled in favor of the KFTC in December 2022. The court ruled that Naver’s self-preferencing restricts competition and stated grounds for its ruling by presenting specific criteria. Naver appealed against the Seoul High Court’s decision and the case is currently pending in the Supreme Court.

## 2.2. Kakao Mobility case

9. Kakao Mobility (hereinafter KM), the number one company in Korea's taxi-hailing services market for standard and franchise taxis, operates "Kakao T", an app that provides taxi-hailing services for standard and franchise taxis.

10. In an attempt to expand its franchise business, KM secretly manipulated dispatch algorithms more favorably to its franchise taxi drivers on the Kakao T app, which provides taxi-hailing services for standard taxis. Thus, KM could rapidly increase its market share in the market for franchise taxis and strengthen its dominance in the market for standard taxis.

11. In response, the KFTC decided to impose remedies and a fine of KRW 25.7 billion on KM in February 2023 for abuse of dominance and engaging in unfair trade practices.

12. As is with the Naver shopping case, this case is significant as it reaffirmed that KM's conduct of restricting competition in other markets (market for franchise taxi services) by abusing its dominance (market for standard taxi services) is illegal.

13. The case also confirmed that discriminatorily setting and changing algorithms of service use conditions (e.g. transaction intermediary conditions) by platform operators may be a violation of the Monopoly Regulation and Fair Trade Act (hereinafter the MRFTA).

## 3. Examples of systematic improvement

### 3.1. Enactment of platform review guidelines

14. The "Guidelines for Review of the Abuse of Dominance", which provide criteria for reviewing abuses of dominance under the MRFTA, contain broad ranging matters applicable to all areas, so there are limitations to providing enforcement standards considering the characteristics of online platforms.

15. Against this backdrop, the KFTC newly enacted the "Online Platform Review Guidelines" in January 2023 that provide clear enforcement standards of the MRFTA, taking account of the domestic platform market situation and innovation and dynamism of platform markets.

### 3.2. Details of platform review guidelines

16. Complementing the former guidelines, the Online Platform Review Guidelines state matters to consider when interpreting the MRFTA based on the decisions made by the KFTC and provide methods to measure market power and criteria to determine unfairness and specify conduct that raises competitive concerns in the platform sector.

17. In particular, the Online Platform Review Guidelines focus on two points regarding algorithms.

18. First, the Guidelines stipulate that when determining the unfairness of an online platform operator's abuse of dominance, the KFTC may consider the effects generated by its products or services and specify hypothetical cases of law violations that expand and leverage market power to other markets by manipulating algorithms.

### Box 1. Assessment of anti-competitive effects generated by a platform operator's products and services

#### (Example 8) Assessment of anti-competitive effects generated by a platform operator's products and services

A dominant market platform that provides both online search services and hotel and flight price comparison and booking services placed its price comparison and booking site at the top of search results by manipulating algorithms in favor of its own site. In this case, the KFTC may consider whether the platform generates or can generate anti-competitive effects in the hotel and flight price comparison and booking service market by leveraging its power in the online search service market to the hotel and flight price comparison and booking service market and whether the platform's strengthened position in the hotel and flight price comparison and booking service market can be used to cement its power in the online search service market.

Note: The above example is a hypothetical case to help understand the guidelines and it may be decided differently depending on the specific findings and market situations.

19. In addition, the Guidelines detail issues to consider when determining violations of law for engaging in self-preferencing and cite algorithm manipulation as a hypothetical example to make the Guidelines more intelligible to law enforcers and those subject to the law.

### Box 2. Self-preferencing

#### (Example 12) Self-preferencing of a platform operator providing comparison shopping services

Company A is a dominant platform operator in the comparison shopping service market and runs an open market business. It is difficult for a competing open market to secure an alternative transaction path to facilitate the sales of its products without using Company A's comparison shopping services. In an attempt to increase the market share of its open market, Company A manipulated search algorithms applied to its comparison shopping services and placed the online stores in its open market at the top of search results while reducing the chances for online stores in competing open markets. As a result, consumers using Company A's comparison shopping services purchased more products from the online stores in Company A's open market, which created a virtuous cycle thanks to cross-network effects and helped the company gain users. By contrast, rival open markets with reduced exposure saw a decrease in the number of online stores, which created a vicious cycle due to cross-network effects, thus losing users and suffering from a competitive disadvantage. As such, Company A's conduct of using its dominant position in the comparison shopping service market to leverage its power to the open market may be a violation of Article 5 (1) 3 of the MRFTA (Prohibition on Abuse of Dominance), which prohibits unfair interference with the business activities of any other business entities.

Note: The above example is a hypothetical case to help understand the guidelines and it may be decided differently depending on the specific findings and market situations.

#### 4. Future Plan

20. The KFTC will continue to vigorously enforce the law against the monopoly conduct of platform operators by manipulating algorithms and examine different measures in the long term, such as improving the transparency of algorithms, to prevent the abuse of algorithms as a means of engaging in anti-competitive practices.