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**Competition and Consumer Policy in Digital Markets – Note by Korea**

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### 1. Introduction

1. Digital platform markets operate on the basis of data, network effects, algorithms, and artificial intelligence (AI), thereby creating competitive dynamics distinct from those of traditional industries. In connecting consumers and sellers, platform operators intermediate transactions through search rankings, recommendation systems, advertising exposure, review systems, and rating mechanisms, all of which directly affect consumer choice and market competition.

2. In recent years, data-driven personalization and online choice architecture have emerged as key competitive tools in digital platform markets. Platform operators analyze consumers' search, purchase, location, and usage data to provide targeted advertising and personalized product recommendations, while also using interface design and algorithms to steer consumer behavior in particular directions. Although these practices may generate consumer benefits by reducing search costs and improving convenience, they may also distort consumers' autonomous decision-making and strengthen the platform operators' market power.

3. Recent OECD discussions have noted that the boundary between competition and consumer policies is increasingly blurred in digital platform markets. Traditionally, competition policy focused on market structures and competition among firms, whereas consumer policy primarily addressed deceptive conduct and information asymmetries. However, in digital platform markets, a single practice may simultaneously generate anti-competitive effects and consumer harm.

4. For example, self-preferencing by platform operators may restrict competition by excluding rival firms while simultaneously limiting consumers' opportunities to compare and choose among diverse options. Likewise, deceptive interface designs such as dark patterns may undermine rational consumer decision-making while increasing consumers' switching costs, thereby strengthening the platform operator's market power.

5. Personalized pricing and recommendation algorithms may improve efficiency and consumer welfare, but they may also exacerbate information asymmetries and consumer lock-in effects. Furthermore, as AI is increasingly utilized in pricing decisions, recommendation systems, search rankings, and demand forecasting, these concerns are becoming more pronounced. In particular, newly emerging agentic AI systems capable of conducting searches, comparisons, and purchases on behalf of users may reduce search costs and increase consumer welfare. However, there is also a risk that such systems may exploit information asymmetries to present biased outcomes or engage in distorted decision-making that favors the platform operator's own products or services.

6. As an authority responsible for enforcing both competition and consumer laws, the KFTC actively addresses anti-competitive conduct and consumer harm arising in digital platform markets. The KFTC monitors and sanctions anti-competitive practices such as self-preferencing, tying, and abuse of superior bargaining power, while responding to consumer protection issues, such as dark patterns, false or misleading advertising, and unfair terms and conditions.

7. The following sections examine the relationship between competition and consumer policies in digital platform markets, explore integrated approaches adopted in Korea, and review the KFTC's enforcement and institutional reforms. Based on these

discussions, the report presents future policy directions and implications for digital platform markets.

## 2. The Relationship Between Competition and Consumer Policies in Digital Platform Markets

8. Traditionally, competition policy has focused on protecting market structures and the competitive process by addressing supply-side restraints such as abuse of dominance, cartels, and mergers. By contrast, consumer policy has aimed to ensure consumers' rational decision-making by regulating deceptive practices, information asymmetries, and unfair trade practices. Accordingly, competition and consumer policies have historically differed in their objectives, legal foundations, and regulatory scope.

9. Digital platform markets, however, are characterized by strong network effects, economies of scale, data concentration, multi-sided market structures, and algorithm-based decision-making. As more users join a platform, the platform's value increases, thereby attracting additional users and potentially leading to rapid market concentration. These characteristics require adjustments in the traditional approaches to both competition policy and consumer policy.

10. In digital platform markets, the multi-sided nature of platforms increasingly gives rise to situations in which a single practice simultaneously affects competition and consumer choices. For example, recommendation algorithms and interface designs may improve user experience and reduce transaction costs, but may also favor the platform operator's own products or services, distort consumer choice, and restrict access for competing firms in ways that reinforce market power. Consumers often cannot determine why they receive particular prices or recommendations, nor whether they are being offered less favorable conditions than other consumers. As a result, such practices may increase switching costs and lock consumers into specific platforms.

11. Accordingly, competition policy and consumer policy in digital platform markets should be understood in a more integrated manner. Both policies ultimately seek to maximize the interests of members of society and are complementary in their implementation. Environments in which consumers can freely compare, choose, and switch between platforms on the basis of sufficient information and meaningful choices may strengthen competition among firms. Likewise, in competitive markets, firms have greater incentives to offer transparent and consumer-friendly products, services, and transaction conditions.

12. Nevertheless, competition promotion and consumer protection do not always operate in the same direction. For example, excessively stringent regulation intended to protect consumers may increase compliance costs and barriers to entry for smaller firms, thereby hindering competition.

13. Therefore, digital platform markets require carefully-balanced policy design that takes into account both competition promotion and consumer protection.

## 3. Integrated Approaches to Competition and Consumer Policies in Digital Platform Markets

14. As an authority responsible for both competition policy and consumer policy, the KFTC has established legal and institutional frameworks that allow it to consider both competitive process and consumer choice and consumer agency when handling

competition and consumer law cases. In addition, beyond individual case enforcement, the KFTC seeks to harmonize competition and consumer policies through organizational management and personnel systems. Accordingly, when competition-related and consumer-related issues arise simultaneously in digital platform markets, the KFTC pursues integrated solutions that take both perspectives into account.

15. With respect to legal provisions and enforcement, Korea’s competition law, the Monopoly Regulation and Fair Trade Act (“MRFTA”), has, since its enactment in 1980, stated that its purpose is to “promote fair and free competition by preventing abuse of market dominance and excessive concentration of economic power and by regulating unfair collaborative acts and unfair trade practices, thereby encouraging creative business activities, protecting consumers, and contributing to the balanced development of the national economy” (Article 1 of the MRFTA).

16. In addition, specific provisions concerning prohibited conduct require consideration of consumer-related effects in determining illegality. For example, Article 5 of the MRFTA requires consideration of “consumer interests” in abuse of dominance cases; the Guidelines for Review of Unfair Trade Practices and Article 46 of the MRFTA require consideration of “consumer welfare enhancement effects” in cases involving abuse of superior bargaining power and resale price maintenance; and Article 89 of the MRFTA includes “consumer redress” as one of the conditions for initiating consent decision procedures.

17. Accordingly, in assessing whether particular conduct restricts competition, the KFTC examines the effects of such conduct on consumers. This demonstrates that competition law enforcement in Korea considers not only competitive market structures but also consumer impacts.

18. At the same time, Korea’s consumer protection statutes — including the Act on Consumer Protection in Electronic Commerce, the Fair Labeling and Advertising Act, and the Act on the Regulation of Terms and Conditions — also pursue broader objectives relating to fair trade practices and market trust, beyond the mere redress of individual consumer harm. In particular, the Fair Labeling and Advertising Act prohibits deceptive or misleading advertising that may mislead consumers and requires consideration of whether such conduct is likely to undermine fair trade practices.

19. Accordingly, in determining whether advertising conduct is deceptive or misleading, the KFTC also examines whether such conduct harms fair trade practices and market order. Specific enforcement examples are discussed in the following section.

20. With respect to organizational management and personnel systems, the KFTC maintains separate divisions dedicated to competition policy and consumer policy and assigns a substantial number of staff members to each area. As a general rule, employees who have served in the same division for more than three years are subject to annual personnel rotations. Through this system, officials who previously worked on competition policy may later work in consumer policy departments, and vice versa.

21. As a result, the KFTC has developed a substantial pool of staff members with expertise in both competition and consumer policies. This enables the KFTC to incorporate consumer protection perspectives into competition policy design and competition policy perspectives into consumer policy design.

22. In particular, with respect to digital platform markets, the KFTC operates both the Digital Fair Trade Policy Division, which is responsible for competition policy and institutional reforms, and the Consumer Transaction Policy Division, which is responsible for consumer policy design and implementation. Through close interdepartmental co-

operation, the KFTC has sought to balance competition and consumer policies considerations in developing policy measures for digital platform markets and in reforming consumer laws to regulate dark patterns.

23. In addition, with respect to enforcement and investigations, the KFTC is currently pursuing the establishment of a new “Priority Investigation Planning Division” to strengthen investigative capacity for serious violations and large-scale, complex cases in areas including platform markets and concentrated sectors affecting consumers’ daily lives. Once established, this organization is expected to function as an agile task force capable of comprehensively and simultaneously investigating complex issues, thereby contributing to integrated case handling aimed at restoring competition and providing consumer redress.

#### **4. The KFTC’s Efforts to Promote Competition and Protect Consumers in Digital Platform Markets**

24. The KFTC has considered both competition and consumer interests when handling cases in digital platform markets. For example, the KFTC found that restrictions on advertising by its members imposed by a business association violated both competition law and consumer law simultaneously; in a deceptive advertising case involving an online shopping platform, the KFTC considered effects on fair trade practices while enforcing consumer law; and in an abuse of dominance case involving an app market platform, the KFTC considered restrictions on consumer choice in assessing anti-competitive effects. In addition, the KFTC has actively responded to dark patterns that distort consumers’ autonomous decision-making, with the expectation that such measures will not only prevent consumer harm but also promote competition in digital platform markets.

##### **4.1. Simultaneous Application of Competition Law and Consumer Law to the Same Conduct**

25. In February 2023, the KFTC imposed remedies and fines of approximately KRW 2 billion on the Korean Bar Association and the Seoul Bar Association (collectively, the “Bar Associations”) for restricting advertisements by member lawyers through prohibiting the use of legal advertising platforms and demanding withdrawal from such platforms.

26. In this case, lawyers belonging to the Bar Associations sought to engage in advertising activities through newly emerging legal advertising platforms. However, the Bar Associations demanded that member lawyers withdraw from such platforms and pursued disciplinary measures against lawyers who failed to comply, with the purpose of restricting use of the platforms.

27. The KFTC found that the conduct constituted a restriction on advertising, which serves as a means by which competing lawyers promote themselves to legal service consumers, thereby restricting competition among lawyers. At the same time, the conduct also restricted consumers’ ability to access information and choose among legal service providers. Accordingly, the KFTC determined that the conduct simultaneously violated competition law (restriction on member business activities under Article 51 of the MRFTA) and consumer law (restriction on advertising by members under Article 6 of the Fair Labeling and Advertising Act).

28. This case is significant because it demonstrates that a single practice may simultaneously infringe competition and consumer laws where the conduct both harms competition and restricts consumer access and choice.

## 4.2. Consumer Law Enforcement Considering Effects on Fair Trade Practices

29. The KFTC recently imposed remedies and fines against the online shopping platform operator, “Coupang”, for deceptive advertising relating to discounted prices available through paid membership subscriptions, where important information affecting consumers’ purchasing decisions was insufficiently disclosed.

30. In this case, Coupang operated a paid membership program in order to increase customer loyalty and reduce member attrition. Consumers who subscribed to the paid membership program paid a monthly fee in exchange for benefits such as free delivery and returns for certain products, dawn or same-day delivery services, exclusive discounts for paid members, and OTT streaming services.

31. Coupang advertised prices reflecting a one-time discount coupon available only to paid members as “paid member prices,” while concealing the fact that the coupon could only be used once. As a result, consumers were led to believe that paid members could always purchase products at lower prices than non-paid members. Consumers were therefore unable to readily understand that the advertised prices applied only on a one-time basis at the time of joining the paid membership program.

32. The KFTC determined that consumers were likely to be misled into believing that paid members could continuously purchase a wide range of products at lower prices than non-paid members.

33. The KFTC further found that concealing important information relating to the meaning, criteria, and scope of “paid member prices” could undermine fair trade practices by interfering with consumers’ rational purchasing decisions. In particular, the KFTC noted that consumers who paid membership fees might rationalize their decision by believing that the membership provided meaningful value and might consequently develop more favorable attitudes toward Coupang compared with competitors, ultimately reinforcing purchasing behavior and affecting market competition.

34. This case is significant because, in applying consumer law to assess deceptive advertising practices, the KFTC considered both the impact on consumer decision-making and the effects on fair trade practices and market competition.

## 4.3. Competition Law Enforcement Considering Consumer Issues

35. In July 2023, the KFTC imposed remedies and fines of approximately KRW 42.1 billion on the app market platform operator, “Google”, for abuse of dominance by providing benefits to mobile game developers — such as favorable exposure within the app market and support for overseas expansion — on the condition that the developers either refrain from launching games on the competing app markets, “One-Store”, or launch them later than on Google’s app market.

36. By leveraging its overwhelming market power to prevent game developers from freely launching games on rival app markets, Google hindered One-Store from attracting new games. This resulted not only in lost sales for rival app markets but also in a decline in their platform value, thereby further strengthening Google’s market power.

37. In assessing whether competition had been restricted, the KFTC considered not only foreclosure effects on competitors and the weakening of rival platforms’ competitiveness, but also restrictions on consumer choice. In particular, the KFTC found that consumers were deprived of opportunities to use games through One-Store and to benefit from the diverse promotional benefits offered by One-Store. On this basis, the KFTC concluded that the conduct constituted an abuse of dominance.

38. This case is particularly significant because, in applying competition law, the KFTC considered both the strengthening of market power through exclusionary conduct and the impact on consumers' choices.

#### 4.4. Improvement of the Regulatory Framework on Dark Patterns

39. In February 2024, the KFTC established a legal basis for regulating dark patterns through amendments to the Act on Consumer Protection in Electronic Commerce. Subsequent amendments to subordinate regulations further clarified prohibited conduct and business obligations.

40. In line with the implementation of the amended legislation, the KFTC inspected platforms, such as OTT services, music streaming services, and online shopping platforms, to identify suspected dark patterns causing confusion or inconvenience to consumers. Following explanations from and consultations with businesses, the KFTC corrected 34 suspected cases of dark patterns and received corrective plans for 11 additional cases that required time for technical measures such as system improvements.

41. The KFTC addressed a wide range of problematic practices, including making account cancellation procedures more complicated than sign-up procedures without legitimate justification, restricting available cancellation methods, charging consumers without prior consent when increasing subscription fees or converting free services into paid services, and displaying only partial prices on the first page of online shopping sites while omitting mandatory charges that consumers were required to pay.

42. These measures are expected not only to prevent consumer harm but also to promote competition by ensuring consumers' practical ability to switch platforms and exercise meaningful choices. In digital platform markets, freer consumer switching may intensify competitive pressure among platform operators.

## 5. Conclusion

43. In digital platform markets, the boundary between competition and consumer policies is increasingly weakening, while consumer behavior and market competition are becoming more closely interconnected. Data, algorithms, interface design, and AI-based personalization technologies simultaneously shape consumer choice and market competition, making it increasingly difficult to fully explain or address emerging issues through competition policy or consumer policy alone.

44. Furthermore, an environment in which consumers can make informed choices and freely switch between platforms contributes not only to consumer protection but also to the promotion of competition.

45. The KFTC has consistently considered both competitive process and consumer choice and consumer agency in formulating and enforcing competition and consumer policies relating to digital platform markets. Through such integrated approaches, the KFTC has sought appropriate solutions to the complex issues arising in digital platform markets.

46. Going forward, the KFTC will further strengthen its efforts to restore competition and protect consumers in digital platform markets through the establishment of the Priority Investigation Planning Division, which will comprehensively investigate potential violations of both competition and consumer laws. The KFTC also intends to expand co-

operation with foreign authorities by sharing research findings and best practices through the OECD and other international fora.