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Competition and Regulation in the Healthcare Sector – Note by Korea

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1. Introduction

1. The domestic healthcare service market operates under a very strict regulatory framework and is highly prone to information asymmetry between consumers and healthcare service providers, such as doctors and pharmacists, with respect to the diagnosis and treatment of diseases.

2. As healthcare services directly affect public health and welfare, a high level of expertise and safety is required. Accordingly, relevant laws regulate not only the qualifications for providing such services in the domestic market but also the manner in which they are provided.

3. These regulations are necessary to ensure the stable provision of healthcare services; however, concerns exist that they may raise entry barriers and restrict competition among service providers in the market.

4. In response, competition authorities need to conduct in-depth reviews to determine whether healthcare service regulations are appropriately applied within the minimum necessary scope, and to continuously improve regulatory frameworks that unnecessarily restrict competition and lack relevance.

5. In addition to information asymmetry, competition is also restricted by unfair practices by market participants, including service providers that abuse their superior bargaining position and pharmaceutical companies or providers that exploit government support programs for healthcare services.

6. Anticompetitive practices in the healthcare service market may pose a threat to public health and safety beyond undermining the fair trade order, while also imposing excessive burdens on government finances. To minimize such significant harm, proactive intervention by competition authorities is required.

7. The following chapters review the Korea Fair Trade Commission's procompetitive efforts and achievements in improving regulations in the healthcare service market, as well as its responses to anticompetitive conduct in the market.

2. Analysis of the Healthcare Service Market in Korea

8. The Medical Service Act provides that medical personnel eligible for providing medical services in the domestic market are limited to physicians, dentists, doctors of Korean medicine, midwives, and nurses. Medical personnel may establish medical institutions or be employed by medical institutions to provide medical services to consumers. In Korea, where traditional Korean medicine is widely practiced, the overlapping scope of practice between physicians and Korean medicine doctors often leads to conflicts between the two professional groups.

9. In the healthcare service market, service providers —medical personnel and institutions— hold a superior position due to their expertise and information asymmetry. Although consumer consent is sought, medical personnel ultimately make decisions regarding medical services, including disease diagnosis, drug prescription, medical treatment, surgeries, and related matters. In this respect, consumers' freedom of choice is

not fully guaranteed. Accordingly, regulations are imposed in the domestic market to help consumers make informed choices regarding medical personnel and institutions. Such regulations include prohibitions on medical service advertising by non-medical personnel and on advertisements containing false information or defamatory statements about other medical personnel.

10. This market structure, in which diagnosis and prescriptions depend largely on medical personnel, also significantly affects competition in the pharmaceutical industry, which is closely related to medical services. Pharmaceutical manufacturers and importers compete through various means to encourage medical personnel to prescribe their products. Competition is particularly intense in the manufacturing sector because patented drugs and generic drugs with the equivalent efficacy coexist in the market.

11. Meanwhile, given the importance and universal accessibility of medical services, the National Health Insurance Service (NHIS) supports the affordability of quality healthcare. Specifically, standard prices are set for each medical procedure and treatment materials, and service fees are reimbursed to healthcare providers under the system since 1977. As a result, consumers are able to receive quality medical services with minimal financial burden. Because the insurance system requires substantial fiscal spending, various medical policies have been introduced to ensure efficient budget management, including a system under which the prices of patented drugs are reduced following the market entry of generic drugs.

3. Healthcare Market Regulation Improvement Framework

3.1. Background

12. As medical services directly concern public health and well-being, a high level of expert knowledge, technology, and safety is essential. For this reason, the qualifications required to provide such services are strictly limited and regulated through a licensing system in Korea.

13. In addition to regulations governing medical service providers, the manner in which medical services are provided is also subject to various regulations, including requirements for the provision of non-face-to-face medical services and obligations to provide explanations to patients prior to treatment. The health insurance market, which aims to relieve consumers' medical expense burdens, is likewise subject to various regulations, including those imposed on insurers and the provision of insurance services.

14. Introduced to ensure safe and reliable medical services, the necessity of these regulations is widely acknowledged. They also generate substantial benefits by promoting stable provision of healthcare services. However, regulations may restrict competition among market participants when they fail to adapt to changing market environments. It is therefore important to weigh the necessity of a regulation against its anticompetitive effects in determining whether improvement is required.

15. Market studies should precede any consideration of regulatory improvement. Competition assessments that evaluate the competitive effects of regulations should be conducted after acquiring a full understanding of the relevant market, including the regulations applicable to market participants and whether competition is functioning well.

16. The KFTC conducts market studies in key domestic markets to determine whether regulatory improvements are necessary through competition assessment processes. When the KFTC determines improvement is needed, it engages in close consultations with

relevant agencies and stakeholders to revise competition-restrictive regulations in order to promote competition in the domestic market.

3.2. Healthcare Service Market Competition Assessment

17. The KFTC has conducted market research in multiple industries annually over the past five years. In 2023, the *Market Study and Competition Assessment on the Bio-healthcare Sector* was carried out to analyze regulations applicable to domestic healthcare services and their anticompetitive effects, with the aim of identifying areas in need of improvement.

Table 1. Five-Year Market Research

Year	2021	2022	2023	2024	2025
Industry	Loan Guarantee	Automotive Parts	Bio-healthcare	Liquor	Virtual Assets
		MVNO	Mobile Communications Devices	Baking	Defense
		IoT	Gas	Climate-tech	Corporate Auditing
		-	-	Household Waste Collection	-

18. In recent years, the healthcare service market has expanded alongside socio-economic changes driven by technological advancement and the digital economy. As a result of these changes, new treatment methods incorporating VR and other digital technologies have emerged, while digital platforms for related services have grown rapidly.

19. Meanwhile, regulations governing medical services do not always adapt promptly to changes in the market environment, raising concerns that certain regulations may no longer reflect current market conditions or may hinder innovation and advancement in medical services.

20. Against this backdrop, the Market Study and Competition Assessment on the Bio-healthcare Sector selected several major regulations in the healthcare service market—including regulations on consumer review-based marketing—and examined how such regulations restricted competition and how competition could be promoted.

21. First, with respect to telehealth services, the relevant Act required such services to be provided within medical institutions for the purpose of ensuring patient safety. Accordingly, patients were not permitted to receive non-face-to-face medical services without visiting medical institutions in person.

22. During the COVID-19 pandemic, however, non-face-to-face consultations and prescriptions via wired and wireless telecommunications and video calls were temporarily permitted for approximately three years, from February 2020 to December 2022.

23. This non-face-to-face method of delivering medical services enhanced consumer benefits in terms of time and cost, particularly for individuals who had difficulty visiting medical institutions in person, while also facilitating the growth of digital platforms intermediating between consumers and medical personnel. However, after the temporary authorization expired in 2023, the intermediary platform industry contracted sharply,

prompting industry participants to call for regulatory improvement through the relaxation of permit requirements.

24. Amid these developments, the KFTC conducted a survey on telemedicine regulations and found that the regulations weakened competition by broadly prohibiting non-face-to-face services and thereby strictly limiting market entry. Based on these findings, the Commission examined measures to provide non-face-to-face services to low-risk patients, elderly individuals who have difficulty visiting medical institutions in person, and residents of remote areas.

25. Meanwhile, discussions continued in the National Assembly regarding the institutionalization of telehealth services. As a result, the Medical Service Act was amended in December 2025 to permit such services within a limited scope. Taking into account both medical safety and consumer benefits, the amendment allows limited telemedicine services for patients with a medical history demonstrating the same symptoms and prior receipt of face-to-face services from the same medical institution within a designated period. The amendment also introduced a reporting system for intermediary platforms providing non-face-to-face medical services.

26. The study also reviewed regulations governing consumer reviews of medical services and proposed corresponding improvements. Through direct communication with the relevant regulatory authorities, these efforts ultimately led to improvements in competition-restrictive regulations.

3.3. Improvement of Competition-Restrictive Regulations in the Healthcare Market

27. The Medical Service Act imposes regulations not only on the qualifications for providing medical services but also on the manner in which such services are provided. These regulations include restrictions on medical advertising, which prohibit non-medical personnel from placing advertisements. Advertisements that raise concerns of consumer deception are also prohibited, including consumer reference marketing that may mislead consumers into believing false treatment effects, even when conducted by medical personnel.

28. The restriction aims to contain the widespread dissemination of inaccurate information by non-medical personnel and to prevent consumers from making unreasonable choices due to misconceptions about treatment effects.

29. Meanwhile, in line with the growth of the digital economy, numerous digital platforms are emerging that provide relevant services, including information on medical institutions and personnel, as well as appointment booking. Consumers can also leave reviews of specific institutions on these platforms.

30. Such consumer reviews, however, could be deemed unlawful as they may be interpreted as medical service advertising under the statutory interpretation of the advertising provisions of the Medical Service Act. As detailed standards for determining unlawful advertising are not specified, consumers have been reluctant to post their reviews.

31. In response, the KFTC assessed the anticompetitive effects of the regulations on medical service advertising and explored possible improvement measures. It was found that the regulations not only constrained the competitiveness of medical institutions and relevant digital platforms but also undermined consumer welfare by limiting access to information.

32. More specifically, consumer reviews of medical services can promote competition among service providers and, in turn, enhance service quality, as they can influence other

consumers' decisions regarding medical institutions. In addition, new entrants in the market can strengthen their competitiveness by building their reputation based on consumer reviews.

33. The regulation on healthcare advertising, which restricted consumers from posting reviews, however, led to a loss of opportunities to promote competition among medical institutions. Digital platforms also lost opportunities to attract more users through review-based services. Consumer welfare was undermined as well, as access to information necessary for making informed choices was limited in a market characterized by significant information asymmetry.

34. To address these issues, the KFTC consulted with the relevant authorities implementing the regulation to establish guidelines providing detailed standards for determining whether consumer reviews constitute medical advertising. This resulted in the issuance of the *Guidelines on Healthcare Advertising* in December 2023.

35. Originally, the Guidelines broadly defined advertisements likely to mislead consumers regarding medical treatment effects as those "exposed to a large group of unspecified individuals." However, this definition was clarified in December 2023. The amendment provides that ordinary patient reviews are not deemed medical advertising, whereas those that exclusively emphasize the positive effects of treatment in exchange for financial compensation may constitute unlawful advertising.

Table 2. Before and After the Amendment of the Guidelines in December 2023

Before the Amendment	After the Amendment
▸ Advertisements in the form of patient reviews or treatment experiences, made publicly accessible to an unspecified number of individuals without access restrictions such as a login requirement, may constitute a violation of Article 56(2)2 of the Medical Service Act.	▸ Ordinary patient reviews are not deemed medical advertising, whereas advertisements financially sponsored by medical institutions that solely emphasize the positive effects of medical treatment may constitute a violation of Article 56(2)2 of the Medical Service Act.

36. Through the amendment, consumers are now allowed to share healthcare service reviews without undue restrictions. The amended Guidelines help consumers make informed decisions regarding medical institutions by prohibiting unlawful consumer reviews posted in exchange for financial compensation.

37. In addition to addressing the anticompetitive concerns arising from these advertising regulations, the KFTC achieved regulatory improvements in the private health insurance market in 2023, where consumers purchase insurance policies to alleviate their medical cost burden.

38. Under the Insurance Business Act, insurance companies are permitted to provide their policyholders with financial benefits of up to the lesser of ten per cent of annual insurance premiums or KRW 30,000. Since its introduction in 2003, this ceiling had remained unchanged until 2023, while limiting competition among insurers to attract subscribers and thereby restricting consumer benefits.

39. In response to this issue, the KFTC held consultations with relevant regulatory authorities to raise the ceiling in a way that would enhance insurer competition and consumer benefits. This resulted in a significant increase in the maximum threshold—for example, smartwatches and other products that may reduce the risk of insured events can now be provided to consumers, with a value of up to KRW 200,000.

40. As explained above, the KFTC has made active contributions to promoting the growth of the domestic healthcare market and consumer welfare by conducting in-depth

reviews and proposing improvements to healthcare regulations governing medical personnel and insurance companies, particularly with respect to whether such regulations remain relevant in the market and whether they unduly restrict competition.

4. Countermeasures Against Anticompetitive Conduct in the Healthcare Market

4.1. Correction of Anticompetitive Conduct

41. Various market participants in the domestic healthcare industry actively compete in pursuit of their respective interests while employing a wide range of business strategies and methods. However, some of these strategies and methods may produce anticompetitive effects by undermining fair competition and restricting competition in the relevant market.

42. Anticompetitive conduct in the healthcare service market restricts competition among market participants, thereby limiting access to adequate healthcare services for consumers and ultimately harming consumer welfare. To address these concerns, the KFTC takes strict action against anticompetitive conduct to ensure that consumers can access quality healthcare services while promoting fair trade in the pharmaceutical industry.

43. Major cases in which the KFTC took enforcement measures against anticompetitive conduct in the domestic healthcare service market include prohibited acts by business associations, such as professional associations of doctors and pharmacists; unfair financial benefits provided by pharmaceutical companies to medical personnel to induce the prescription of their products; and cartels among pharmaceutical companies involving the suspension or delay of the market entry of generic drugs.

44. First, with regard to prohibited acts by business associations composed of professional groups, the Monopoly Regulation and Fair Trade Act prohibits business associations consisting of multiple business entities from requiring other business entities to engage in unfair practices or from unreasonably restricting the business activities and affairs of entities belonging to other business associations.

45. In the domestic market, conflicts continue among professional groups regarding their respective interests and scopes of practice. Major disputes exist between physicians and doctors of Korean medicine, as well as between pharmacists and herbal pharmacists. These long-running disputes led to unfair business practices in which an association of physicians (Association A) and an association of pharmacists (Association B) pressured medical device and pharmaceutical companies to suspend the supply of medicines to doctors of Korean medicine and herbal pharmacists.

46. The KFTC determined that such practices limited consumers' access to adequate healthcare services, restricted price and service competition among pharmacies and herbal pharmacies, and caused consumer inconvenience. Concluding that the two associations had reduced competition and consumer welfare by demanding the suspension of pharmaceutical and medical device supplies to doctors of Korean medicine and herbal pharmacists, the KFTC imposed sanctions in January 2017.

47. More specifically, the Commission ordered the associations to cease the conduct at issue and refrain from engaging in identical or similar conduct in the future, and further ordered them to notify pharmaceutical and medical device companies of the sanctions imposed by the authority.

48. Another case involving prohibited acts by a business association concerned an association of pediatricians (Association C). A government policy was introduced to support pediatric medical institutions operating late at night on weekdays in order to

enhance consumer welfare. Association C opposed the policy, arguing that it would concentrate consumers in certain medical institutions. Beyond merely expressing its opposition, however, Association C pressured medical personnel and institutions participating in the policy not to take part in the program by imposing disadvantages such as removing them from association membership.

49. Although the supportive policy was well received by the public, with approximately 80 per cent of consumers expressing satisfaction, the association's pressure on its members not to participate in the policy deprived medical personnel of opportunities to provide services and undermined consumer welfare by limiting access to late-night treatment on weekdays.

50. In response, the KFTC addressed the unlawful conduct in May 2017 by imposing remedies requiring Association C to cease the conduct at issue and refrain from engaging in identical or similar conduct in the future. The policy has remained in place since then, contributing to the provision of quality medical services and achieving a consumer satisfaction rate of 97%.

51. Second, there was a case involving pharmaceutical companies exploiting the structure of the domestic healthcare market, in which diagnosis and prescription decisions largely depend on medical personnel rather than patients. These firms induced medical personnel to prescribe their products through the provision of unfair or excessive financial benefits.

52. The Monopoly Regulation and Fair Trade Act prohibits the unfair inducement of competitors' customers through unlawful practices, and the KFTC sanctions such conduct by pharmaceutical companies. In one relevant case, the KFTC imposed a fine of KRW 30.5 billion along with corrective remedies in November 2023 after finding that pharmaceutical company D had provided hospitals and clinics nationwide with various benefits, including golfing and overseas academic conferences.

53. Such unfair inducement of competitors' customers through unlawful practices may distort medical personnel's prescription decisions by causing them to prescribe medications based on the amount and frequency of benefits provided, rather than on the effectiveness and safety of the drugs.

54. In addition, pharmaceutical companies may prioritize competition through the provision of financial benefits rather than through improving drug quality or developing new drugs. This may not only hinder the advancement of medical services, but also place a burden on government finances, as promotional expenses related to such financial incentives may ultimately be reflected in drug prices.

55. To prevent harm caused by pharmaceutical companies' unfair inducement practices, the KFTC closely monitors and takes enforcement measures against not only the direct provision of financial benefits to medical personnel, but also the indirect provision of such benefits through third parties to induce the prescription of their products. In January 2026, the Commission imposed sanctions on pharmaceutical company D after finding that the company had established a sales agency by mobilizing employees of its affiliates in order to conceal its rebate scheme and had provided financial incentives to medical personnel through the intermediary entity.

56. As pharmaceutical companies may provide such incentives at the request of medical personnel, the Commission also maintains a coordinated cooperation system with health authorities to prevent the repeated occurrence of such unlawful inducement. Specifically, when corrective remedies are imposed on pharmaceutical companies, the Commission notifies the health authorities within 30 days so that they may take measures

such as suspending the licenses of medical personnel who received unlawful benefits. This aims to discourage medical personnel from requesting such benefits from pharmaceutical companies in the first place.

57. Third, cartel cases have arisen in connection with a system under which the prices of patented drugs are reduced following the market entry of generic drugs, a mechanism intended to improve the efficiency of public finances. Under such cartel arrangements, original drug manufacturers paid generic drug manufacturers to suspend the development and market entry of generic drugs in order to prevent reductions in the prices of original drugs.

58. Because generic drugs are proven to be equivalent to original patented drugs in terms of efficacy, effectiveness, and safety, they are considered to be in a competitive relationship with the original drugs. Accordingly, the market entry of generic drugs places substantial competitive pressure on original drugs by reducing their prices and market share.

59. Given these circumstances, original drug patent holder F and company G, which had been developing a generic equivalent, engaged in a concerted practice. Under the arrangement, company G agreed not to manufacture or launch the generic drug for approximately four years, from October 2016 to December 2023, in exchange for receiving the exclusive right to distribute the original drug in the domestic market from company F.

60. The agreement not only restricted competition in the relevant market by directly deterring the market entry of a potential competitor capable of launching generic alternatives, but also eliminated the possibility of reductions in the price of the original drug, thereby causing inefficiencies in public finances and increasing consumers' burden of pharmaceutical expenses.

61. In December 2022, the KFTC took enforcement measures against the pharmaceutical companies involved in the scheme. A fine of KRW 2.6 billion, calculated based on the sales revenue of the original drug, was imposed on the companies, thereby promoting competition and encouraging pharmaceutical firms' research and development activities. Company G, which had been developing the generic equivalent in this case, is now preparing to launch a generic version of another patented drug in the domestic market, demonstrating that competition in the industry has become more active.

4.2. Preventive Measures Against Anticompetitive Conduct

62. Preventing anticompetitive practices and maintaining active competition in the relevant market are just as important as sanctioning such practices and restoring competition.

63. The harm caused by anticompetitive conduct is often difficult to reverse once it occurs, and improving market conditions through corrective remedies is likely to be time-consuming. This makes it necessary to actively pursue preventive measures against anticompetitive practices in parallel with remedial measures.

64. In this regard, the KFTC has introduced various systems to prevent violations by participants in the healthcare service market, one of which is the Fair Competition Code Approval System aimed at preventing unfair customer inducement practices. Under this system, business entities or business associations voluntarily draft codes of conduct specifying the scope and details of financial benefits, and the KFTC approves the codes after reviewing whether they constitute unlawful customer inducement.

65. In practice, the Korea Pharmaceutical and Bio-Pharma Manufacturers Association, which consists of domestic pharmaceutical manufacturers, and the Korea Research-based Pharmaceutical Industry Association, which consists of global pharmaceutical companies operating in the domestic market, have established their own codes of conduct governing pharmaceutical transactions. Beyond the pharmaceutical sector, similar codes of conduct have also been established across a wide range of sectors, including medical devices and health functional foods.

66. For example, the codes of conduct governing pharmaceutical transactions specify the procedures, methods, and thresholds with which members must comply when providing financial support to medical personnel for medical or pharmaceutical academic symposiums, including expenses for meals, accommodation, and transportation.

67. The purpose is to support the stable business activities of pharmaceutical firms by reducing the risk of violations and legal uncertainty through the KFTC's review and approval of their codes of conduct. Under the relevant law, pharmaceutical firms are not prohibited from providing financial benefits to medical personnel per se, and such benefits are permitted within a reasonable scope.

68. In the absence of clear standards regarding the permissible scope of financial benefits, however, pharmaceutical firms have no choice but to continue their business operations under legal uncertainty. In some cases, their provision of benefits may be deemed unfair or excessive, resulting in remedies or fines.

69. That is why the KFTC establishes detailed standards regarding the requirements and permissible scale of financial benefits provided by pharmaceutical firms through the review and approval of fair competition codes, while addressing the risk of anticompetitive conduct that induces medical personnel to prescribe their products through unlawful or excessive incentives.

70. Likewise, the KFTC continues to make every effort to promote the growth and innovation of medical services through the Fair Competition Code Approval System and other preventive measures, in addition to sanctioning anticompetitive practices in the market, thereby enhancing public access to quality healthcare services.

5. Conclusion

71. In the healthcare service market, the interests of various market participants are intricately intertwined, while significant entry barriers exist due to the highly stringent regulatory framework. This makes it all the more important to foster an environment in which market participants are able to continue their business in a free and fair manner.

72. As active competition among market participants and fair business practices can promote the advancement of healthcare services and enhance consumer welfare, promoting competition and fostering a fair market environment are important missions of competition authorities, which make efforts in various respects to achieve these goals.

73. As reviewed in this report, the KFTC has promoted the growth of the healthcare service market by examining and proposing improvements to competition-restrictive regulations in the market. It consistently pursues enforcement actions and preventive measures against anticompetitive practices in parallel, thereby contributing to fair transactions among various market participants.

74. A competition authority's ability to maximize procompetitive effects through its own efforts alone is limited; therefore, the KFTC closely cooperates with the health

authorities governing the medical service market, while seeking and implementing competition-promoting policies in consultation with stakeholders and experts.

75. Also, given the universal importance of healthcare services, promoting competition in the relevant market is widely recognized as essential across jurisdictions. Further strengthening of the enforcement capabilities of competition authorities is expected through enhanced cooperation among OECD member states and the sharing of each jurisdiction's experience in promoting competition in the market.