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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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Methodologies for Conducting Market Studies - Note by Korea

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More documents related to this discussion can be found at www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm

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1. Overview of Market Study

1. The Korea Fair Trade Commission (hereinafter “KFTC”) has been conducting the market study since 2008 to analyze monopolistic industries where competition market system are not operating properly, and to come up with follow-up measures. The market study plays the role of promoting competition and enhancing consumer welfare by analyzing the causes of market failure where market competition is not properly operating, and developing the measures to promote competition.

2. The Article 3¹ of the *Monopoly Regulation and Fair Trade Act* (hereinafter “MRFTA”), the Korean competition law, stipulates that the KFTC is obliged to establish and implement competition-promoting policies in the markets where monopolistic market structure has persisted. Pursuant to that article, the KFTC is conducting about two to three market studies annually, and proposing opinions that can improve the policies to the relevant administrative agencies based on the results.

3. The purpose of the market study is to first, analyze the causes of anti-competitiveness or market distortion that are occurring in the specific markets and develop countermeasures. Secondly, it is to seek the optimal way of enforcing law in order to promote market competition and protect the consumers. Third, find and reform various anticompetitive regulations and give advice to policy-making institutions such as other governmental organizations and National Assembly.

4. The major types of industries on which the market studies have been conducted include beer (2016), aluminum hydroxide (2015), school uniforms (2015) and cosmetic products (2011).

¹ The article 3 of the Monopoly Regulation and Fair Trade Act (Remedy, etc. of Monopoly or Oligopoly in Market Structures). (i) The Fair Trade Commission shall establish and implement action plans to promote competition in markets in which monopoly or oligopoly situations have continued for a long time in relation to supply or demand of goods or services. (ii) The Fair Trade Commission may give opinions to the heads of the relevant administrative agencies as to the introduction of competition or other measures necessary to improve market structures, where it appears to be necessary for the Commission to carry out action plans under paragraph (i).

The KFTC's Market Study Status

Year	Analysis Target Industry	Year	Analysis Target Industry
2008	Air transportation, Internet portals	2013	Advertising, Insurance
2009	Indemnity insurance, Film, Oil, Pharmaceutical, Gas	2014	Auto lease, Industrial gas
		2015	Aluminum hydroxide, School uniforms
2010	Alcoholic beverages	2016	Group Energy, Beer, Tug-boat, Railroads (Non-transport)
2011	Cosmetics		
2012	Online education, Digital music, Pay TV		

2. Process of Market Study

2.1. Pre-Market Study Procedure

2.1.1. Selection of Candidates

5. When the candidates of market study are selected, the followings are comprehensively taken into account. (i) The sector in which concerns arise for anti-competitiveness or markets that are not functioning properly; (ii) the sector in which the National Assembly, media, consumer groups, etc., are raising issues; (iii) the sector in which the interested parties such as enterprises and enterprisers' organizations deem the market study necessary; and (iv) the sector on which the advanced countries deal as major issues.

6. In particular, the industries where there had been many infringements of competition law in the past and frequent consumer complaints or damages are primarily selected as candidates for the market study, since there is a high possibility that the competition does not work properly in those industries.

2.1.2. Execution of Preliminary Test

7. In the preliminary test stage, the KFTC identifies the sales revenue, size of import and export and market structures by utilizing publicly available information such as market structure examination results by the KFTC and credit report. Then, the KFTC figures out the profitability ratio through measurement indices such as return on assets and cost to selling price ratio. Moreover, the KFTC examines information such as the regulations by the government on the candidate industries and voluntary regulations implemented by the enterprises themselves, the KFTC's previous decisions and consumer damages and complaints in detail.

2.1.3. Selection of Target Industries

8. Once the analysis on the candidates is completed, the final target industries are selected by comprehensively considering the market size, market concentration and profitability ratio based on quantitative indices including market structure index and market performance index. For market structure index, the entry barrier, industry concentration, import ratio, consumer switching cost and easy availability of information on cost and quality are taken into consideration. For market performance index, elements such as price and cost margin rate, rate of productivity increase, rate of R&D investment and the number of times the consumers filed complaints are considered.

2.2. Execution of Market Study

2.2.1. How to do Market Study

9. After the selection of target industries is completed, the market study is conducted through methods such as investigation through questionnaires, on-site inspection surveys.

10. In case of a written investigation, in accordance with the article 3 and 64 of the MRFTA, the KFTC may request the enterprises, enterprisers' organizations, heads of relevant administrative agencies, etc., to submit relevant data such as the market status of the relevant industry, market competition, overseas' cases, and the problems in the relevant market. However, the KFTC has no authority to force the submission of data related to market study.

11. Also, the KFTC sometimes utilizes data published by the market analysis institution, and conducts field investigations when the investigation through questionnaires alone is not sufficient to collect data. This has to be done under the agreement of enterprises, etc. Other cases include the surveys conducted on enterprises, consumers and experts. For instance, the KFTC has conducted a consumer survey related to auto repair parts market study in December 2016.

Box 1. Consumer Survey for the Market Study on Auto Repair Parts Market

(Purpose) To identify consumers' awareness and demand for replacement parts, and predict the changes that will be made in market structure and consumer welfare when relatively cheaper prices of replacement parts are supplied in the market.

(Target & Method) An online survey targeted to people whose family or themselves own a car and who are very likely to get involved in the inspection and repair of the car.

(Contents) Consumer awareness on original parts and replacement parts, the reason that the consumers prefer original parts over replacement parts, the willingness to pay (WTP)* for replacement parts, etc.

* Analyzes whether the consumer is willing to use the replacement parts if reasonably-priced replacement parts are provided instead of the same original parts

(Study Method) Presume a consumer demand function regarding replacement parts based on the survey conducted on consumer awareness and WTP, and through that process, simulate the changes in market structure and consumer welfare due to the revitalization of the replacement parts supply.

2.2.2. Contents of Market Study

12. Market study includes market status, market competition, status on governmental regulations, cases in other countries, assessment on competition situation and plans for improving policies.

13. First step is to define the specific concept and scope of the relevant industry, and analyze the market size, supply and demand of the industry and production and distribution structure of the relevant market. Furthermore, the KFTC inspects and analyzes the profitability ratio of the industry through measurement indices such as operating margin and net profit margin. In order to analyze the characteristics of the industry, the KFTC identifies in detail whether an entry barrier or economy of scale exist in the relevant industry, whether it is a regulated industry affected by government's regulations and what the characteristic of the pricing structure are.

14. Secondly, to find out about market competition of the relevant industry, analysis should be conducted on the market structure through the market share and concentration, status on market entry and exit, and the level of vertical integration in the production and distribution stage. In the market behavior aspect, the KFTC reviews behaviors of the enterprise including for example, the level of price liberalization, evaluation of price competition, and the level of development and innovation regarding products and services. Also, through consumer survey, etc., analysis is conducted on consumer behaviors such as things to consider or what the obstacles are when choosing or switching products. In addition, an analysis is conducted on the market performance such as profitability ratio of the relevant market and enterprise.

15. The next step is to figure out the status on government's regulations and performance of the previous regulatory reforms such as entry regulations, price regulations and business activity regulations. Along with that, examination of the overseas market status of relevant industry, cases of foreign competition authorities on which competition law has been enforced and regulatory reform cases is needed.

16. Lastly, the KFTC finds a solution to the problem by reviewing the characteristics of the relevant industry, the market and consumers' behaviors, the current status on the competition and government's regulations, and analyzing how the government's regulations against the relevant industry affect market competition and consumer welfare.

2.3. Post-Market Study Procedure

2.3.1. Drafting market study report and collecting opinions

17. The KFTC collects opinions from the interested parties and experts (enterprise, enterprisers' organization, administrative agencies, consumer groups, academia, etc.) related to the target industry regarding the drafted report based on the market study conducted through the above procedures. In particular, if the measures following the market study are recommendations for administrative agencies, the KFTC can verify the results of market study and predict the effects the recommendations can bring about. Afterwards, revising and complementing the draft that reflects the opinions of the interested parties and experts will be done.

2.3.2. Publishing Results of Market Study

18. Before publishing the results of the market study, the evaluation committee conducts an evaluation on the draft whether it is appropriate or needs to be complemented. The committee consists of internal public officials and non-governmental experts. The report is published after reflecting the opinions of the committee and having been confirmed.

2.3.3. Implementation of Follow-Up Measures to Promote Competition

19. The KFTC recommends relevant ministries that they reform regulations or investigate or rectify the behaviors of enterprises in regards to the measures that are proposed in the report to promote competition. Also, sometimes the KFTC recommends enterprises that they voluntarily correct their wrongdoing. If any alleged violation of law is detected, it is notified to the department in charge.

2.3.4. Post Analysis and Assessment

20. The KFTC monitors whether relevant ministries or enterprises that have been requested to reform regulations have carried out the measures, and thereby assesses the effects of the market study. In addition, the KFTC analyzes and evaluates the effects that have been brought to the market by implementing the measures suggested in the market study process to promote competition, and makes reference to them when developing the measures to promote competition based on the market study in the future.

3. Major Cases of Market Study

21. Below are the major market study cases conducted by the KFTC.

3.1. School Uniforms (2015)

3.1.1. Background

22. Due to the high cost promotion strategy of the name brand school uniform sellers, high-priced school uniforms became a social problem. In order to respond to this, parents were allowed to voluntarily group purchase school uniforms, and bulk purchase system² by schools has been introduced since 2015.

23. However, the enterprises that did not participate in the bulk purchase system or win the bids induced the freshmen of participating schools by engaging in promotional activities to make students purchase school uniforms from their brands instead of buying from school-designated sellers, thereby causing an unreasonable situation where the successful bidders are unable to sell school uniforms.

24. Accordingly, the KFTC has conducted an analysis on the school uniform market to identify the causes of the problem and come up with measures to fundamentally improve the system.

3.1.2. Contents

25. The KFTC has analyzed school uniforms market status, distribution structure, the process of selecting the enterprise that supplies school uniforms, the way the system is operated and unfair conduct that occurs in the process of its operation.

26. Through the analysis, the KFTC was able to find out that there had been a discrepancy in terms of timing between the schools selecting the school uniform seller through the bidding (August to November of the previous year) and freshmen applying for school uniforms by bulk purchase system in February the following year. Also, it has been found that around the time schools receive applications for bulk purchase between January and February, the uniform sellers that did not win the bid induced* freshmen students to buy their school uniforms, making the bulk purchase system to not operate properly.

27. Accordingly, a both short-term measure, where a tender is supposed to be held after confirming the volume of school uniforms that students will buy by receiving the applications from the freshmen, and a long-term measure that adopts a standard design policy for school uniforms were introduced.

3.1.3. Application Results

28. The KFTC has proposed to the Ministry of Education the short-term and long-term measures for improving the bulk purchase system, and made remedial recommendations in February 2016. The Ministry of Education accepted the proposals made by the KFTC, and delivered the written guidelines reflecting the KFTC's

² A system where bidding is held for enterprises that meet certain requirements by the request of the school head, and the school was exclusively provided with uniforms in bulk from one provider. A bidding procedure has taken place since August 2014 to supply school uniforms.

recommendations to Office of Education in June 2016. The relevant remedial recommendations will be optionally implemented* starting from 2017 depending on the decision of each school.

* Each head of the school is in charge of bulk purchase system, and thus it is up to him/her to adopt the recommendations, and it will be decided by the head after considering the circumstances of each school and reflecting the opinions from parents and students.

29. If the school implements the KFTC's recommendations and carries out a bidding after the school receives applications from students and confirms the volume, interference in business activities among rival enterprises can be prevented in the process from the bidding to the supply of goods. In the long term, if the standard design is adopted, right competition principle will be introduced to the school uniforms market and consumer convenience may be enhanced.

3.2. Cosmetics (2011)

3.2.1. Background

30. Some provisions of Cosmetics Act are borrowed from that of Pharmaceutical Affairs Law, which emphasizes the safety. Therefore, the cosmetics industry was relatively more strictly regulated compared to other countries. However, in order for the industry to be more globally competitive, regulations needed to be rationalized by such as reforming regulations that undermine competition and improving regulations to meet the global standard.

31. Accordingly, the KFTC conducted a market study to discover policies that harm competition in the entire process of R&D, manufacturing, distribution, sales and advertising of the cosmetics industry or that are inefficient in protecting the consumers.

3.2.2. Contents

32. The KFTC carried out the analysis by examining the cosmetics market status, relevant regulations, and overseas' cases, and also creating and operating an experts' forum. As a result, the KFTC drew the conclusion that the regulations restricted the growth of the market of the relevant products since the products that are categorized as cosmetics in other countries are classified as medical supplies in Korea, which means they are more strictly regulated. In addition, regulations are stricter compared to those of other countries, which lead to the restriction of industry's growth.

33. Therefore, the KFTC came up with a total of seven improvement plans to promote competition and protect consumers; re-categorizing toothpaste, tooth whiteners that are classified as medical supplies to cosmetics, rationalizing labeling and advertising regulation related to the 'possibility of medical misconception', enhancing cosmetics criteria and test methods and easing the requirements for quality test of cosmetics importers.

3.2.3. Application Results

34. Based on the results, the KFTC requested the regulation reform to the relevant ministries (Ministry of Health and Welfare, Korea Food & Drug Administration), and reformed four* regulations that harm competition of the cosmetics industry through consultation. As a result of the regulation reform, it became easier to develop cosmetic products, which allowed more various products to be released. Therefore, the competitiveness and consumer welfare have been enhanced.

* Improving categorization system of cosmetic products, rationalizing labeling and advertising regulation, enhancing regulation of cosmetics standard and test methods, and rationalizing the requirements for quality test of cosmetics importers.