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## Introductory Remarks

### <By Shin, Dong Kweon, Director General, OECD-KPC>

I would like to give greetings to all readers through this 1st newsletter of the Competition Programme at the OECD-Korea Policy Centre.

Since the foundation of the Competition Programme, OECD-KPC in Feb. 24, 2004, we held 34 seminars with competition authorities in the Asia Pacific region. I have no doubt that competition authorities in Asia have strengthened professional capacity in the competition law and policy fields through learning and exchanging advanced theories and sharing experiences between participating countries. So far, 715 competition experts have participated from 36 countries.

At this juncture, it is an appropriate time to think about strengthening close ties between participating countries and forming a policy community in the Asia Pacific region. This will be a way to deal with internationalized competition standards which will be more complicated in the future. As a part of this work, we, at the OECD-KPC have come up with an idea to issue a newsletter. The newsletter will allow participants in the previous seminars to have more opportunities to learn about participating countries and share information as experts who completed an OECD-KPC training course.

The newsletter will be composed of events at the OECD-KPC, major news

and events at the OECD Headquarters, country papers about case studies by participating countries, major news in some of the participating countries and major news at the KFTC.

We will seek various ways to make the newsletter rich with contents. If you have some advice or information to share, please send them to us: [ajahn@oecdkorea.org](mailto:ajahn@oecdkorea.org). This will help us to come up with more advanced and sophisticated newsletters. If you, readers contribute information to our newsletters, then it will serve as a real information tool allowing various countries to share information naturally and form an Asian policy community. This will lead to the enhancement of mutual understanding and the development of competition law execution in our region.

The OECD-KPC will be at the center of this process to support and play its role. I would like to celebrate the publication of a Competition Programme's first newsletter and wish further development.

### <By Nick, Taylor, Specialist of the OECD-KPC>

Dear Readers,

Welcome to the first newsletter of the OECD-Korea Policy Centre!

Many of you have participated in our workshops held in Seoul and other



<Mr. Shin, Dong Kweon>

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<Mr. Nick Taylor>



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**Regional Anti-trust Workshop with the KPPU on March 24<sup>th</sup> ~26<sup>th</sup> in Bogor, Indonesia**

locations throughout Asia. We hope that you have found our events useful to your agency’s work and we hope that this newsletter will also be interesting and useful to you.

Each of our workshops usually has a series of expert presentations from the OECD, the Korean Fair Trade Commission and competition agencies in other member countries. We also usually have presentations from newer competition enforcement agencies from the Asian region.

Typically, each agency can only send a maximum of one or two delegates to each event. Through the newsletter we would like to keep in touch with the officials who have attended our events in the past and continue to share information with them in the future.

The newsletter will include summaries of our Centre’s workshops and of the meetings held by the OECD on competition matters at its headquarters in Paris. Also, we will include information about our upcoming events in Korea to enable you to plan your participation ahead of time and, finally, we invite you to provide summaries of key cases in your country. In this way, hopefully we can continue to share experience with each other.

Regards  
Nick Taylor (OECD)

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## Events at the OECD-KPC

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### Regional Anti-trust Workshop with the KPPU on March 24<sup>th</sup> ~26<sup>th</sup> in Bogor, Indonesia

**OECD-Korea Policy Centre conducts seminar with KPPU in Bogor, Indonesia**

<By Nick Taylor>

The KPPU hosted an OECD-Korea Policy Centre seminar in Bogor near Jakarta

attended by more than 45 KPPU officers and staff from other Indonesian ministries. Experts were invited from the Australian Competition and Consumer Commission, the Italian Competition Authority, the Japan Fair Trading Commission, the Korean Fair Trade Commission and the OECD.

The first part of the seminar concerned complex market definition cases.

As informed readers will already know, substitution is the key to market definition – if goods can be substituted for each other by consumers and suppliers they are in the same market. But, how much substitution is enough substitution for two goods to be in the same market? And, what if the substitution goes in only one direction (in other words, the customers or suppliers of good can switch to other goods but the customers or suppliers of the other goods cannot switch back. have no choices)? What is a ‘2-sided market’ and how are they treated by competition laws?

All these questions were the subject of theoretical lectures and case study presentations by Nick Taylor of the OECD, Peter Van de Hoek of the ACCC and Jaeho Moon of the KFTC.

The KPPU participants then had the opportunity to demonstrate their interview and analytical skills in a hypothetical in which market definition was highly debatable and in fact changeable over time.

The second part of the seminar concerned the proof of cartels using indirect evidence.

In particular Gianluca Sepe of the Italian Competition Authority presented in detail on a baby milk cartel case . The case was decided on the basis of indirect evidence such as price movements, price comparisons with competitive markets and observations that meetings between competitors had taken place even though the details of the agreement itself was not directly proved.



**Regional Anti-trust Workshop with the KPPU on March 24<sup>th</sup> ~ 26<sup>th</sup> in Bogor, Indonesia**



**Regional Anti-trust Workshop on Vertical & Conglomerate Mergers and Merger Remedies on April 28<sup>th</sup> ~ 30<sup>th</sup> in Seoul**



**Regional Anti-trust Workshop on Vertical & Conglomerate Mergers and Merger Remedies on April 28<sup>th</sup> ~ 30<sup>th</sup> in Seoul**

Similarly a Peter Van de Hoek presented in detail on a petrol cartel case in which the ACCC had obtained penalty orders following an investigation that relied substantially on indirect evidence.

Kentaro Hirayama of the JFTC, too, presented on two cartels in the telecommunications and chemicals industries in which the Japanese Courts were satisfied that there had been an illegal contact based on indirect evidence. The types of indirect evidence considered included price movements, the incentives of the companies concerned and in one case the fact that the competitors had formed a club known as the Kabuto Club which met immediately before bids were due.

### **Regional Anti-trust Workshop on Vertical & Conglomerate Mergers and Merger Remedies on April 28<sup>th</sup> ~ 30<sup>th</sup> in Seoul**

*<By Nick Taylor>*

Every year the Centre hosts a workshop on mergers. In 2009 the topic was horizontal mergers and joint ventures. To complete the picture on how to analyse different types of mergers, one of the key topics at the Centre's 2010 mergers workshop was a discussion of non-horizontal mergers. The other key topic discussed was the topic of merger remedies.

For this event, the OECD-Korea Policy Centre arranged an exchange of staff with the OECD's sister Centre located in Budapest. The Budapest Centre is a joint venture between the OECD and the Hungarian Competition Authority and it holds events that are very similar to those held by the OECD-Korea Policy Centre. Attendees in Budapest typically come from Central and Eastern European countries. The purpose of the staff exchange between the Korean and Hungarian OECD Centres was to enable the cross-fertilization of competition thinking and skills between Europe and Asia. Hence Mr Joao Azavedo, who is attached to the Budapest Centre, was the coordinator of the mergers event in Seoul this

April.

Turning to the first of the two key topics discussed at the workshop, vertical mergers usually involve a supplier of goods purchasing a company that is its customer. Or, of course, a vertical merger could involve the customer acquiring one of its suppliers. Conglomerate mergers, on the other hand, are different again. Conglomerate mergers involve diverse products that are not an input one to the production of the other but they are usually indirectly related products. For example, a telephone company may merge with a pay TV operator. Or a manufacturer of one type of airplane parts may merge with a manufacturer of a different kind of airplane parts.

The discussion of these types of mergers commenced with an introductory lecture from the OECD. Ms Betsy Piotrowski of the Federal Trade Commission then presented on the analysis of a vertical merger in the US and Mr Jongbae Park of the Korean Fair Trade Commission presented an analysis of a conglomerate merger in Korea.

Turning to the topic of merger remedies, it is often the case that a competition authority identifies competition problems with a merger but the problems may not affect the whole merger. In these cases, it is sometimes possible for the merging parties to proceed with their merger provided that they abide by competition related requirements such as to divest a particular business unit. Competition related requirements connected with a merger are commonly called "merger remedies".

Merger remedies can be very beneficial because sometimes they can solve competition problems and enable mergers that improve business efficiency or create value to occur. However, designing and enforcing a set of effective merger remedies can be difficult. Common pitfalls include remedies that do not really correct the competition problem or remedies that involve such intensive supervision by the competition authority that its resources become over-stretched. Again the discussion of this topic commenced



**Regional Anti-trust Workshop on Vertical & Conglomerate Mergers and Merger Remedies on April 28<sup>th</sup> ~ 30<sup>th</sup> in Seoul**



**Regional Anti-trust Workshop on Cartel Enforcement on June 2<sup>nd</sup> - 4<sup>th</sup> in Jeju Island**



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with an introductory presentation by the OECD and detailed experience was shared in presentations given by Ms Agnieszka Marek of the Australian Competition and Consumer Commission, Ms Betsy Piotrowski of the US FTC and Ms June Lee of the US Department of Justice.

Additionally, two presentations showcased the mergers work of the Pakistan Competition Commission (Ms Vadiyya Khalil) and the Chinese Ministry of Commerce (Mr Zhiqiang Li). Both presentations concerned horizontal mergers and served as good reminders of the key points from the Centre's 2009 workshop on horizontal mergers and joint ventures.

Finally, all the above speakers, and also the attendees from India, Indonesia, Mongolia, Papua New Guinea, Singapore, Thailand and Vietnam, participated in a hypothetical exercise concerning a complex merger involving remedies.

## **Regional Anti-trust Workshop on Cartel Enforcement on June 2<sup>nd</sup> - 4<sup>th</sup> in Jeju Island**

**18 Delegates from 9 Asian Countries Attend the OECD-Korea Policy Centre's Cartels Event on Jeju Island**

<By Nick Taylor>

Eighteen delegates from nine Asian countries visited the beautiful Korean island of Jeju in June to attend a program focused on cartel investigations.

The event started with a lecture on an overview of cartel enforcement from the theory of why cartels are damaging to the economy, a review of the research estimating the extent of the damage and how countries can best fight against cartels.

Over a series of sessions during the event, a hypothetical case study provided an opportunity for the participants to practice investigation techniques together.

The case study was based originally on a real case example of an asphalt bid-rigging conspiracy from Sweden but with significant changes to make the case relevant to participants from the Asian region. The participants reviewed a package of materials supposedly obtained in a dawn raid and interviews were conducted with certain participants playing the part of customers and competitors.

The different stages of the hypothetical were punctuated by lectures from a Japanese delegate providing an overview of that country's cartel enforcement activities and the OECD bid rigging guidelines and a lecture by a Korean delegate outlining the history and showcasing the successes of that country's leniency program.

Case studies were provided by Chinese Taipei, and Singapore. These cases are discussed on page 7 and 8.

Attendees at this session included delegates from the following jurisdictions: Chinese Taipei, India, Indonesia, Japan, Korea, Mongolia, Singapore, Thailand and Vietnam.

## **Events at the OECD**

### **OECD Competition Meetings June 2010**

**“Detailed reports will be available at [www.oecd.org](http://www.oecd.org)”**

<By Nick Taylor>

The OECD's Competition Committee and its two working groups meet three times a year to discuss topical issues in competition law and policy.

Each of the OECD's 31 members send delegates along with the EU.

There are also a significant number of invited observer delegations from other jurisdictions or countries who also participate actively in the proceedings and one from the business community. A very brief summary of the discussions

appears below and detailed reports will be available at [www.oecd.org](http://www.oecd.org) or on the Competition Division's annual CD compilation copies of which are provided at OECD-Korea Policy Centre events and which are also available to competition agencies from the OECD on request.

### ***Standard Setting and Competition Policy.***

Standard setting means, for example, when competing music recording companies meet together to agree on a particular technology or format for a new recordings so that manufacturers of new music players are made compatible with a range of different suppliers' recordings.

Several competition risks arise in standard setting including what competitors should and should not discuss or agree when setting standards. Also, it is important that they disclose to each other the existence of any intellectual property that one or more of them may own over the technology to be included in any proposed standard. If there is intellectual property owned over a new standard, the license conditions that the owners impose on their competitors are also important from a competition perspective.

### ***Structural Separation in Telecommunications and Gas***

Structural separation is the idea that in some industries, such as in telecommunications and gas there may be some parts of the industry which are open to competition but other parts should be 'structurally separated' activities that are natural monopoly activities servicing all the competitors or customer. These natural monopoly activities are usually the operation and supply of network carriage services and these activities are often subject to sector specific price and access regulation.

The particular issue that emerged in the June meetings was whether and how structural separation affects the incentives and ability to invest in replacement and expansion of networks.

### ***Discussion on Public Procurement / Bid Rigging Issues***

Three topics related to bid rigging in public procurement were discussed in June: (i) experience with the use of Certificates of Independent Bid Determination (CIBDs); (ii) coordination of leniency and bidder disqualification programs; and (iii) techniques for incentivizing procurement officials to focus their interest in avoiding and punishing bid-rigging. The discussion showed that CIBDs are a deterrent tool to fight collusion in public tenders, as is the introduction of disqualification

orders for bid riggers.

### ***Roundtable on Procedural Fairness: Transparency Issues in Civil and Administrative Proceedings***

This discussion covered a range of issues, from decision-making process, of competition authorities to confidentiality rules, requests for information to targets of investigation, availability of agreed settlement procedures, and judicial review and interim relief. Two topics raised particular interest: (1) how best to ensure that decision-makers obtain comprehensive information and test it in a rigorous evaluative process most likely to result in the correct outcome; and (2) how to balance the protection of confidential information obtained in enforcement matters against the need to provide targets of competition enforcement proceedings with the evidence forming the basis of the case against them.

### ***Hearing on Credit Rating Agencies***

The main Competition Committee held a hearing on credit rating agencies and competition related issues with the participation of Ms. Patricia Langohr (ESSEC), Prof. John Coffee (Columbia University) and Mr. Karel Lannoo (Centre for European Policy Studies).

Credit ratings are ratings given by privately owned expert firms that concern the financial riskiness or financial safety of a firm or country's debt, a company's equity or the riskiness of particular investment products. Credit rating agencies are topical in the context of the global financial crisis because prior to the crisis many commercial practices and financial regulatory instruments relied heavily on the ratings given by these agencies. It is argued that faulty credit ratings, or the incorrect use and interpretation of those ratings by companies and regulators, may have contributed to a failure of national and international financial systems.

Competition issues arise because there have historically been very few significant credit ratings agencies (just 2 or 3) who are by-far the most important players in the market. Indeed the experts at the OECD meeting explained that the very nature of the industry is likely to lead to high levels of concentration. Ratings agencies typically receive their revenue by charging the companies or countries whose investment offerings they are rating and this could create a conflict of interest. In this context, a form of competition could emerge where each agency competes with others to give an investment product a more favourable rating to win the business of the company issuing debt. This could go too far and the agency could give the company a more favourable rating than its financial fundamentals warrant.

The role of credit ratings in the global financial crisis and the apparent conflicts of interest have led to calls for various forms of new regulation of credit ratings agencies. Many further competition issues arise in the context of new regulation, for example, would some types of regulation such as licensing that required the agency to demonstrate a long track record of accurate ratings make it even harder for new credit ratings agencies to enter and compete in the market?

### ***Roundtable on Exit Strategies***

As part of an on-going set of discussions connected to the financial crisis, there was a discussion on “exit strategies”. “Exit strategies” refer to the fact that during the crisis many governments have intervened in markets in a range of significant ways. For example, many banks have been nationalised or they have received governmental support through debt and equity injections. In some countries even manufacturing industries have received such support. In some cases private debt instruments have also received government guarantees or there has been direct government lending where banks ceased to provide finance.

These interventions can have negative impacts on competition and, as the crisis abates, the question arises about whether and how this government intervention should be withdrawn. Similarly, a question arises as to whether there should be any lasting intervention even in normal times to protect against future crises.

This roundtable discussion addressed the question how can competition policy assist in ensuring (i) that any competitive distortion created by measures adopted during the crisis is eliminated and (ii) measures are taken to ensure the market is ‘crisis-proof’ for the future. With the participation of Profs. Kotz, Chair of the OECD Committee on Financial Markets and T. Beck (Tilburg University—NL), the Committee discussed the appropriate scheduling of exit strategies and the contrasted involvement from one country to another of competition authorities in the design of exit strategies.

### ***Roundtable Discussion on Competition and Professional Sports***

The Committee had addressed this topic once previously in 1996 but much has changed in the interim. Guest speaker Stefan Szymanski of City University London explained why sports markets have unique characteristics that distinguish them from conventional markets. For example, there are important threshold questions such as is the relevant entity an individual club in competition with other clubs or should the

whole league be treated as a single entity? Is a not for profit league or a professional league with amateur junior divisions subject to competition law?

Having answered those threshold questions, two broad types of competition issues arise: first, in sports markets, competing clubs or teams often agree to abide by a wide variety of rules imposed by their industry on itself. For example, there may be rules about how many teams can play in a particular level of a league, there may be rules that none of the clubs employ players found to have taken drugs, rules that only a limited number of foreign payers can be included in a team or rules that particular types of equipment are must be used or must not be used. Interesting issues arise in deciding whether these rules are necessary for the sport or if the rules have anticompetitive consequences.

Second, rights to broadcast sports contests can often be so commercially valuable that they can shape the destiny of other markets such as TV, internet and even telephony markets. In this respect, competition issues can arise if sports broadcast rights sold alone or in large packages of rights at the wholesale level and the tying or bundling of services together with TV packages with exclusive broadcast coverage.

Key developments in this arena include the rise of the internet and mobile devices and greater penetration of Pay TV as alternative outlets to free to air TV for broadcasting sports events. The discussion at the meeting showed that countries have taken very different approaches to some issues. For example, some countries permitted leagues to sell broadcasting rights collectively on behalf of their teams while other countries did not. Some had even tried both approaches and there are pros and cons of each.

### ***Next Meetings in October***

The Committee decided to hold several roundtable discussions this October which could directly input into the OECD Green Growth Strategy, thus complementing previous Committee’s discussions on this subject. These forthcoming roundtables will focus on i) emissions trading quotas; ii) on Market based solutions for environmental policies and iii) on Horizontal Agreements (cartels, joint venture, competitors collaborations, etc.) in the environmental area.

### Case Study Presented By Chinese Taipei



#### **Cartel Enforcement Case in Chinese Taipei**

<By Hsiao-Yin Huang>

The presentation by Chinese Taipei at the recent OECD-KPC cartels event included three parts. The first part focuses on the definition of concerted action and the question of price leadership in an oligopoly market. Concerted action is regulated in Article 7, 14 to 17, 35 and 41 of the Fair Trade Act (Act). In principle, any concerted action is not allowed, unless it is one of the 7 situations expressly permitted, such as import or export joint ventures, standard production, and alliances between small businesses. The significant question whether the action of the firm's price leadership in an oligopoly market is concerted action or not is worth to mention. Nowadays, because it is difficult to get a direct evidence of a cartel agreement, circumstantial evidence can play an important role in proving a cartel agreement.

Second, the cartel enforcement of the tobacco case in Chinese Taipei (CT) is introduced. The actors involve three tobacco companies (TTL, JTL, PMTW) and three distributors (President Chain Store, Family Mart, Hi-Life). Therefore, it is important to clarify which stage (s) involve(s) concerted action. The investigation procedure mainly contains interviews, collection of the tobacco industry information, and financial data.

The state of competition among the three tobacco companies, the data of their sales, inventories and purchases, and their trade conditions are investigated. According to the analyses, the competition situation of the tobacco manufacturers, decision-making times to increase the prices, the range of the price increases and economic

analyses in the manufacturing stage are important. The product features and motivation to increase the price in the distribution stage were also analyzed. After this analyses, the Commission made a decision that these tobacco companies and distributors didn't violate against the Act because of no hard-core cartel evidence, but their rational choices. However, the Commissioners thought that the tobacco companies had fixed resale price lists and the distributors had arbitrage. So, they decided to give them warning letters to pay more attentions on these points. Finally, two future challenges on the cartel enforcement, especially on the Commission's enforcement in Chinese Taipei, are discussed. The first challenge is that the leniency policy hasn't been carried out, though the Commission has decided to put it into the Act. The second one is that the huge fine may hurt the companies and competition itself. These questions are needed to worth thinking about more.

### Case Study Presented By Indonesia



#### **KPPU Investigation on Cartel of Fixing "Short Message Service" Price**

<By Ananda Fajar Pratama>

In the year of 2007, Commission for the Supervision of Business Competition (KPPU) examined a case regarding the allegation of violation of Article 5 Law Number 5 Year 1999 about Cartel of Fixing "Short Message Service" Price.

There were 9 (nine) reported parties in this case:

1. PT Excelcomindo Pratama (XL)
2. PT Telekomunikasi Selular (Telkomsel)
3. PT Indosat (Indosat)
4. PT Telekomunikasi Indonesia (Telkom)
5. PT Hutchison CP Telecommunications (Hutchison)

6. PT Bakrie Telecom (Bakrie)
7. PT Mobile-8 Telecom (Mobile 8)
8. PT Smart Telecom (Smart)
9. PT Natrindo Telepon Seluler (NTS)

There are three types of phone Service in Indonesia; Fixed Line, Fixed Wireless Access, and Cellular. At present, share of Cellular (Full Mobility) and Fixed Wireless Access (Limited Mobility) subscriber is growing while Fixed line subscriber is shrinking. The relevant market in this case is “Short Message Service” (SMS) which provided by Cellular and Fixed Wireless Access Players. Number of players and market share consist of 9 Players but 95% subscribers belong only to 4 largest players (Telkomsel, Indosat, XL, and Telkom).

### Conduct of Reported Parties

The reported parties had agreements which form an integral part of Interconnection Cooperation Agreement on SMS Rates among Cellular Operators. There were two types of clauses in the Interconnection Cooperation Agreement, i.e. the SMS rate of the operators searching for the access (a) shall not be lower than Rp 250; (b) and than retail rate imposed by the access provider. In other word, they have imposed the SMS rate with the interval of Rp 250 – Rp 350 which has allegedly violated Article 5 of Law Number 5 Year 1999 which stated: **“Business actors shall be prohibited from entering into agreements with their business competitors to fix the price of certain goods and or services payable by consumers or customers on the same relevant market”**.

### Conclusions

Based of the analysis on the facts and evidence in the form of information given by the Reported Parties, witnesses, experts and documents collected during the examination, the examining team comes to the following conclusions:

1. There was no SMS cartel in the period of 2000-2004 between the 3 suppliers.
2. There was an SMS cartel in the period of 2004-2007 between Telkomsel and XL and Telkom. Mobile 8 and Bakrie were also forced to follow.
3. There was an SMS cartel in the period of 2007 up to April 2008 which was a continuity of the previous period and Smart was also forced to follow.

4. Indosat, Hutchison, and NTS are not proven to be involved in any SMS cartel.

### Decision

1. PT Excelcomindo Pratama, PT Telekomunikasi Selular, PT Telekomunikasi Indonesia, PT Bakrie Telecom, PT Mobile-8 Telecom, PT Smart Telecom are proven to have validly and convincingly breached Article 5 of Law No. 5 Year 1999.
2. PT Indosat, PT Hutchison CP Telecommunication, PT Natrindo Telepon Seluler are not proven to have breached the of Law
3. PT Excelcomindo Pratama, and the PT Telekomunikasi Selular each to pay penalty of twenty-five billion Rupiah.
4. PT Telekomunikasi Indonesia to pay penalty of eighteen billion Rupiah.
5. PT Bakrie Telecom, to pay penalty of four billion Rupiah
6. PT Mobile-8 Telecom, to pay penalty of five billion Rupiah.

### Case Study Presented by Singapore



<By Sebastian Tan>

“Price-fixing and bid-rigging activities are prohibited under the Singapore Competition Act, and Competition Commission of Singapore (CCS) may impose financial penalties not exceeding 10% of the turnover of the business of an infringing company in Singapore for each year of infringement”.



The cartel operated in the following manner. If one of the companies (the “requester”) was interested in winning a tender project, it would request for a cover bid from at least one other company (the “supporter”). The requester would inform the supporter(s) of its bid price so that the supporter(s) could submit a higher quote. This created a false impression of competition.

CCS began its investigations into the cartel after receiving a leniency application from one of the cartel members. With information obtained from the leniency applicant, CCS carried out surprise inspections at the premises of the cartel companies, and conducted interviews with the relevant personnel and issued notices seeking information and documents.

The leniency applicant was the new management of one of the cartel members, and had discovered that the previous management had colluded with other companies to coordinate the price of quotations. As the leniency applicant was the first successful applicant, the company was granted total immunity from financial penalties under CCS’ leniency programme.

This case is CCS’ 3<sup>rd</sup> infringement decision against cartels since the prohibition against price-fixing agreements came into force in 2006. The first two cases involved a bid-rigging cartel involving 6 pest control companies (2008); and a price-fixing cartel by 16 companies and its association in the express bus service from Singapore to various destinations in Malaysia (2009).

In the former case, CCS imposed financial penalties totalling about SGD\$262,000 while in the latter case, CCS imposed financial penalties totalling about SGD\$1,690,000.

More information about CCS’ investigations against cartels and the CCS leniency programme can be found at CCS’ website at: [www.ccs.gov.sg](http://www.ccs.gov.sg).”

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## **KFTC News**

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### **Cases Handled Up 2.4%, Surcharges Increased 35.9% in 2009**

In 2009, Korea Fair Trade Commission (KFTC) strengthened antitrust enforcement by addressing highly anticompetitive cartel conduct and market dominance abuse in the sectors closely related to people’s lives such as beverages, medicine, modem chips and auto parts. As a result, the number of cases handled by the KFTC increased to 4,664 in total, up 2/4% year on year.

Surcharges imposed in 2009 increased by 35.9% to 371 billion won compared to 272.9 billion won last year.

The market dominance abuse case by Qualcomm was subject to the surcharge of 273.2 billion won, the largest surcharge of the year while the second- and third-largest surcharges were imposed respectively for unlawful concerted act by five beverage manufacturers facing 26.3 billion won and illegal customer attraction by seven pharmaceuticals 20.4 billion won.

### **Airliners Sanctioned for Market Dominance Abuse**

On, March 10, 2010, the KFTC decided to impose corrective order and a combined surcharge of 11 billion won on Korea’s two largest airliners, Korean Air Lines Co. (10,397 billion) and Asiana Airlines Inc. (640 million) for abusing their dominant position in the airline market.

The two airliners used provision of flight seats and discounts as leverage to hamper business between travel agencies and discount carriers. So low-cost carriers (LCCs) had difficulty selling their tickets and international tickets.

Korean Air provided rebates for travel agencies on the condition that they would raise the share of Korean Air tickets to the certain level of their total sales to limit sales expansion of its rival companies and also inhibited ticket discounts for customers by prohibiting travel agents from using rebate proceeds to lower ticket prices.

The corrective measure by the KFTC is very important in that they are aimed to correct anti-competitive practices in the market where monopolistic structure has been lasted for a long time. The measure expected to increase competition in the airline market and as for customers, various airline services will be offered at reasonable prices.

### **Commission Fines 19 Airlines 119 Billion Won for Cargo Price-fixing**

The KFTC imposed a total fine of 119,544 million won on 19 airlines and corrective order on two airlines for violating the Monopoly Regulation and Fair Trade Act. The Commission found that those 21 airlines had conspired to introduce fuel surcharges and continue to raise surcharge rates for air cargo to and from Korea between 1999 to 2007. The Commission’s investigation began with unannounced inspections in Feb. 2006, prompted by a leniency application.

Send information to  
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We are planning to add major news from participating countries in our next newsletter so if you have any news including events or case studies that you would like to introduce to other countries, please sent them to us. Then we are going to insert them into the newsletter. We sincerely seek your cooperation.

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## OECD-KPC Competition History

· Conclusion of a Memorandum of understanding (MOU) between the OECD and the Korea Fair Trade Commission (KFTC) on the establishment of an OECD Regional Centre for Competition (December 26, 2003)

· Enactment of the Prime Ministerial Ordinance for the Establishment and Operation as a legal foundation by the Koreangovernment (February 20, 2004)

· Opening of an OECD Asian Regional Centre for Competition (April 19, 2004)  
Integrated into the OECD/KOREA Policy Centre (February 1, 2007)

## Future Events

**Regional Anti-trust Workshop on Abuse of Dominance and Pricing Issues organized by the OECD-KPC will be held on September 15<sup>th</sup> ~ 17<sup>th</sup>, 2010 in Seoul.**

In this workshop, we are going to deal with different measures of price, predatory pricing cases, excessive pricing cases and investigation prices. The September anti-trust workshop will be held in connection with the 6th Seoul International Competition Forum in the KFTC.

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## Newsletter

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# SEMINAR SCHEDULE

## YEAR 2010

DATE	Subject	Location
24-26 Mar	Indonesian event: Market Definition in Complex Matters & Detecting Cartels and Making Determinations Using Indirect Evidence	Jakarta, Indonesia
28-30 Apr	Mergers: Analysis and enforcement where there are vertical and conglomerate effects. Determining the appropriate remedies in complex mergers.	Seoul, Korea
2-4 Jun	Cartels Enforcement	Jeju, Korea
15-17 Sep	Price Related Abuse of Dominance: <ul style="list-style-type: none"><li>• The core tools required to analyse pricing conduct;</li><li>• Predatory pricing / unfair low prices;</li><li>• Excessive pricing / unfair high prices;</li><li>• Price discrimination; and</li><li>• Margin squeeze cases.</li></ul>	Seoul, Korea
20-22 Oct	Competition law issues in the banking industry including: <ul style="list-style-type: none"><li>• Merger assessments in the banking industry (taking prudential regulation into account in analysing competition; competition analysis of branch networks; failing firm defences).</li><li>• Competition law treatment of payments systems matters and other two sided markets.</li></ul>	Seoul, Korea
1-3 Dec	Investigation techniques using a cartel as an example: <ul style="list-style-type: none"><li>• Planning and managing the progress of an investigation;</li><li>• Preparing document requests and conducting reviews of documents;</li><li>• Planning and executing a dawn raid; and</li><li>• Interviewing witnesses.</li></ul>	Busan, Korea



### **Cultural Tour**

**The participants from the June seminar in 2010 took a group photo in front of Oedolgae In Jeju island**



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