

Practical Suggestions for Better Enforcement on Cross Border Cartels

- A perspective from a private practitioner with long work experience in the competition authority

First Intervention

Joongweon Jeong
Senior Advisor, Ph.D in Law
Bae, Kim & Lee
Republic of Korea

CONTENTS

-
- I. Legislations for Combating CBC**
 - II. Enforcement Manual**
 - III. Difficulties Investigated Parties Face**
-

- Foreign company with no presence or asset in the investigating jurisdiction
- Engages in an international cartel activity outside of the jurisdiction
- But the conduct has **anticompetitive effect within the jurisdiction**

■ Legislation for Combating CBC

(1) Establishing legal basis for extraterritorial application

(2) International Cooperation

- Mutual recognition and utilization of positive comity
- Sharing of investigation information
- System for confidentiality

(3) Harmonizing relevant regulations among jurisdictions

- Leniency program

✓ Utilization of the know-how accumulated through International discussions

- Active discussions surrounding the challenges the competition authority faces in its enforcement and ways to respond to such challenges

✓ Bilateral cooperation agreements

- Periodically meet with the partnering jurisdiction
- Share the enforcement experience
- Learn from each other

Establish enforcement manual through implications from international discussion

→ Strengthening enforcement capacities

→ Leading to successful investigation & sanctions

Difficulties Investigated Parties Face

- Simultaneous investigation in multiple jurisdiction
- Investigated and sanctioned under a foreign legal system

✓ International Agreement on transparency, predictability, and consistency

- When each competition authority's manual for cross border cartel sufficiently reflects this overall principle → **Burden on the investigated party is reduced**

Practical Suggestions for Better Enforcement on Cross Border Cartels

- A perspective from a private practitioner with long work experience in the competition authority

Second Intervention

Joongweon Jeong
Senior Advisor, Ph.D in Law
Bae, Kim & Lee
Republic of Korea

CONTENTS

-
- I. International Cooperation**
 - II. Role of Private Practitioners**
-

✓ For effective enforcement against CBC, international cooperation is necessary

- Working together with foreign competition authorities in conducting individual investigations
- Participating in various multilateral international discussions and enhancing the cooperative relationship with major trading partners by entering into bilateral agreements

✓ Learn from other jurisdictions' experiences of facing challenges and overcoming them



- Need for **procedural guarantees** based on which private practitioners may actively engage in the competition authority's enforcement process.
 - KFTC example
 - Private practitioner's participation keeping KFTC's enforcement in check
 - Procedural fairness and drawing the right conclusion

✓ Capacity Building

- Introducing foreign precedents
- Learning from foreign enforcement systems
- Participating in international conferences

A wooden gavel is positioned on the right side of the image, resting on a wooden block. A long, dark shadow is cast from the gavel and block, extending towards the bottom left corner. The entire scene is set against a solid blue background.

THANK YOU

bkl