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Latest Developments in Competition Law and Policy

Opening Plenary

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*General statements: latest developments in competition law
and policy*

Byung Hoon Ahn

Thank you, chair, for the kind introduction. I appreciate the opportunity to share some thoughts with all of you on the KFTC' latest advancements and expertise in the field of competition law and policy.

Although the KFTC has made significant progress in various areas lately, I'd like to narrow down my attention to the digital market, considering the limited time available.

As you are aware, competition authorities worldwide have been closely examining the digital market in recent years. It is likewise a top priority for the KFTC.

KFTC has been actively and rigorously enforcing competition law against the abuse of dominance and unfair business practices by digital tech platforms, regardless of where they are based in.

I will briefly introduce two significant cases that KFTC has handled, which have become landmarks in this regard.

KFTC levied sanctions against Google for its abusive practices in the mobile market, specifically for impeding smartphone manufacturers from developing and introducing innovative operating systems. At the outset, Google gained significant popularity in the market by providing open-source code accessible to all, which quickly attracted smartphone manufacturers. Consequently, within a remarkably short span

of 3 years since its initial release, Google's market share soared to an impressive 72 percent.

Following that, Google imposed restrictions on the business activities of smartphone manufacturers by requiring them to enter into an anti-fragmentation agreement (AFA) as a mandatory condition for acquiring licenses of Google Play Store and gaining early access to Android source codes which are essential to smartphone manufacturers.

Within the framework of the AFA, Google imposes limitations on smartphone manufacturers, prohibiting them from installing modified versions of the Android operating system that do not meet Google's compatibility standards. While Google ostensibly justifies these restrictions by citing compatibility concerns, the true intention of the AFA is to hinder the progress and development of new operation systems.

In other words, Google employed a strategy known as "open-first, closed later." This strategy entailed initially opening up its platform to attract a larger user base during the early stages of the market, and later asserting control over the transactional terms and conditions for companies that relied on the platform.

By adopting this approach, Google has enjoyed the benefits of rapid user expansion, all the while creating obstacles for competitors seeking entry into the mobile operating system market. As a result, this has had a detrimental impact on the overall diversity and innovation within these markets, causing them to suffer.

KFTC imposed monetary fines and corrective measures on Google, directing the company to discontinue the practice of

compelling the anti-fragmentation agreement(AFA) and to amend contract clauses accordingly.

Back in 2019, the European Commission imposed a significant penalty on Google for participating in unfair business practices, such as bundling of its search app with its Play Store.

Google does not hold a dominant position in the general search engine market in Korea. In fact, our national search engine, NAVER, has a greater market share than Google. As a result, the sanctions imposed by KFTC were specifically focused on addressing the anti-fragmentation agreement(AFA) alone.

Second case involves Kakao, a prominent mobility platform company in Korea.

KFTC imposed penalties on Kakao for engaging in the abuse its dominant position in the market. Specifically, Kakao was found to favorably allocate calls to its franchise taxis, thereby strengthening its position in the franchise taxi market.

Kakao, holding a monopoly in the Korean mobile messenger market, managed to capture a remarkable 92 percent market share within just four years of entering the taxi-hailing service market.

Kakao manipulated the dispatch algorithms used in its taxi-hailing services, which were utilized by both franchise and non-franchise taxi drivers. This manipulation involved giving priority to calls for its franchise taxis, resulting in discriminatory treatment of non-franchise taxi drivers within the realm of taxi-hailing services.

As a result, Kakao experienced an astonishing surge in its market share for franchise taxis, escalating from 14 percent to 74 percent in just two years. This raised concerns regarding the potential foreclosure of competitors and a subsequent decline in service diversity.

In response to this, KFTC decided to impose fines and corrective measures on Kakao, directing the company to modify its discriminatory algorithms that favored its franchise taxis when assigning rides.

This is a landmark case of penalizing a dominant platform that rapidly expands its business by giving preferential treatment to its own services.

The KFTC will continue to uphold its stringent enforcement of competition laws, particularly focusing on platform operators leveraging market power through self-preferencing. By doing so, the KFTC aims to address monopolistic practices in the digital market effectively.

In addition, the KFTC will update its law enforcement standards, reflecting the characteristics of platforms.

With this goal in mind, the KFTC established the Online Platform Monopoly Review Guidelines in January, to effectively regulate the abuse of market dominance in the platform sector.

The guidelines outlines market definition and set forth criteria for evaluation market power, considering the distinctive characteristics of platforms. They also provide criteria for identifying conduct that raises competitive concerns within the platform sector, including actions that impede multi-homing

and engage in self-preferencing.

Furthermore, KFTC intends to revise the merger guidelines within this year to conduct a comprehensive assessment of the increased barriers to entry that arise from conglomerate mergers, as well as the potential leveraging market power.

I hope that we can take this opportunity to develop a shared approach in addressing monopolistic practices in the global digital market, promoting mutual understanding and cooperation.