
Opening remarks Enforcement of Competition Law

2016. 6. 9.



송 상 민
서울지방공정거래사무소장

Good morning distinguished guest and ladies and gentlemen, I am honored and privileged to make an opening statement before you.

First of all, I'd like to congratulate Professor Hong for successfully hosting this seminar on platforms and mobile competition and I also would like to thank him for inviting me in this very timely and important event.

About a month ago, when Professor Hong asked me to say a few words in this seminar the first question came up to my mind was this, Why me? why not the chairman or vice chairman of Korean Fair Trade Commission? I think the only reason for me to stand in front of you on behalf of KFTC is that I am the lucky person available in Seoul because KFTC is not in Seoul anymore. It is located in Sejong City, a hundred miles away from here.

The second question that haunted me over thirty days was what should I say on behalf of the Korean law enforcement agency on this very important topic of Platforms and Mobile Competition. I thought since Professor Hong did a great job gathering all the experts and scholars from Korea and abroad, I'd rather concentrate on law enforcement issues and contribute the view points of law enforcers, taking advantage of my experiences in KFTC.

Looking back my twenty three years of career in KFTC, I summed up what I think is the very important characteristics of antitrust enforcement and I'd like to share three sentences with you.

The first thing, I think we need to keep in mind is that antitrust is complex. If it is not complicated, that is not competition law. For some reason, competition law is supposed to be complex in order to do its job.

Let's take a look at the proposed agenda of this seminar. The question raised by panel 1 is "From website to apps. Who is competing with whom online?" When you are watching baseball game, this is a silly question. No one watches baseball game without knowing who is competing with whom. However when it comes to antitrust, the first thing you need to do is to define market and identify players before you move on to elsewhere.

Compared to other questions, the agenda faced with panel 1 is relatively simple but I am pretty sure that professor Jeon and other distinguished panelists will make it more complicated by the end of this seminar.

The second agenda raised by panel 2 is "Are competition law and policy applicable to the mobile economy and how?" I guess the answer to this question is somewhere between

yes and no and that is why we need to enforce competition law very carefully in appropriate manner. It is all up to you to figure out what that means.

The final agenda is typical antitrust question that shows how complicated competition law is. The agenda before panel 3 is "Building successful platforms - balancing freedom and governance." By the way, is it possible to eat the cake and have it? When I was a child, being raised in large family, I learned that the only way to have my cake is by eating it but I'm not sure same is true with freedom and governance. The agenda of panel 3 is my favorite one, I am looking forward to the conclusion of the discussion.

Having said that, I'd like to move on to the second characteristics of antitrust. I think same is true with other legal area, but especially when it comes to competition law, the law is one thing and the enforcement is another. When the KFTC was first founded in 1981, there were only some 20 countries that adopted competition law globally. But today about 120 countries have their competition laws in place. This is truly an amazing development but I am not sure whether or not there have been corresponding accomplishments from the enforcement point of view.

In Olympic Games all of the player are playing the game by the same rule and the referee of the game is supposed to be from third country who is not playing. People think that is fair and necessary to guarantee disinterested application of the rules. However when it comes to competition law, I think the substantive law is relatively similar but the enforcement is so different from countries to countries that it is virtually impossible to think that in someday the competition agency of third country is supposed to enforce competition law on transnational M&As or international cartels. Therefore, I think this seminar will be better off if we focus more on the actual enforcement rather than the substantive law itself to get the better understanding of antitrust.

The last thing I'd like to mention on antitrust enforcement is that, as a corollary of the other two characteristics, the enforcement of antitrust is an art. Now a days, you can download almost every recipes of antitrust enforcement anytime, anywhere all around the world but that does not mean that you can cook delicious antitrust dishes yourself. You need to make your own trial and errors to be a good chef. To me, antitrust is something you learn by doing not by studying it. That is why case studies are very important in competition law and I am very happy that main theme of panel 2 discussion is case studies from Korea and abroad.

Finally, I'd like to conclude by summarising what I said earlier. Antitrust is complex, competition law is one thing and the enforcement is another, and the enforcement of antitrust is an art. I believe if you keep these three sentences in your mind, you are ready to handle most of the problems raised in antitrust world.

Once again, I'd like to extend my gratitude to ICT Law and Economy Institute of Seogang University and professor Hong for inviting me to this very honorable event, and all of the participants for listening to my speech.

Thank you all very much.