

Trends in Online Platform Self-Regulation

At the heart of President Yoon’s pursuit of a fair market environment and dynamic innovative platform ecosystem is self-regulating industry players. In this article, we examine the legislative proposal to amend the Telecommunications Business Act (“TBA”) introduced by the government on November 16, 2023 (the “**Bill**”), after more than a year of a whole-of-government effort towards self-regulation in the platform industry.

Key Aspects of the Bill

First and foremost, the Bill provides a statutory basis for platform self-regulation. Online platforms are allowed to carry out self-regulatory activities directly by themselves and can also choose to establish an independent self-regulatory body for more efficient self-regulation.

Meanwhile, the government is authorized to launch projects and adopt public policies that support the spread of self-regulation, where the self-regulatory activities relate to: (i) the preparation and enforcement of voluntary covenants (including amendments thereto); (ii) the voluntary inspection of user protection workflows; (iii) the handling of user complaints; (iv) the enhancement in user access to services and digital capacity; (v) the disclosure of self-regulatory activities and achievements; and (vi) healthy development of online platforms and user convenience.

Importantly, the Bill requires online platforms (or the self-regulatory body) to endeavor to make opportunities for experts and stakeholders to share their thoughts on the self-regulatory activities at least once per year and permits the regulatory bodies that have oversight over online platforms (i.e., Ministry of Science and ICT and the Korea Communications Commission) to consider the self-regulating efforts made by a business when granting relief in penalties (or other administrative sanctions) following a finding of TBA violations.

Other Intragovernmental Efforts

Up and running since August 19, 2022 is the Self-Regulatory Organization for Online Platforms (“**Self-Regulatory Organization**”), a largely private-sector led but government-supported organization that is divided into four divisions to effectively explore various measures in furtherance of an effective self-regulatory system for online platforms.

To date, the (i) Fair Transactions Division has prepared a self-regulation plan for delivery apps, open marketplaces, and vacation rental apps (discussion ongoing); (ii) Consumers & Users Division has devised a collective redress plan for consumers of open marketplaces; (iii) Data & AI Division has established self-regulation principles to enhance transparency in search and recommendation services; and (iv) ESG Division has advanced 8 core principles to amplify online platforms' social value.

As the Bill lays out the legal foundation for the operation of and government support for self-regulatory bodies, the Self-Regulatory Organization is expected to actively continue with its endeavors and in-depth discussions on effective self-regulation practices.

There are also sector-specific self-regulatory organizations. For instance, the self-regulatory body whose primary focus is placed on data protection is offered a wide array of support from the nation's privacy watchdog, the Personal Information Protection Commission ("PIPC"), including assistance with the drafting of the voluntary covenants and examining online systems for security risks. So far, voluntary covenants for the communications, broadcasting, shopping, and MVNO sectors have been prepared, and we expect more are forthcoming given the PIPC's commitment to encourage more industry self-regulation, especially in sectors that affect people's daily lives and where large amounts of personal data are processed.

Key Takeaways

- Although self-regulation is believed to offer businesses more practical and feasible solutions in addition to the flexibility needed to adapt to market changes, its effectiveness has been questioned because the success of self-regulation hinges on voluntary participation of the businesses.
- The Bill is expected to provide much-needed momentum for the Yoon administration's self-regulation policy for online platforms, and the incentives for businesses provided under the Bill (i.e., relief from administrative penalties) are likely to motivate businesses to make expansive efforts toward implementing self-regulatory measures.
- However, calls for legislation to control online platforms' suspected monopolistic behavior remain, and if self-regulation proves less effective than hoped, discussions on the need for more stringent legislation will be reignited. As such, online platforms should uphold their commitments and the relevant covenants applicable to each sector and closely monitor related developments across the legislative and executive branches.

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