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Merger Control 2026

A practical cross-border resource to inform legal minds

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1 Relevant Authorities and Legislation

1.1 Who is/are the relevant merger authority(ies)? If relevant, please include details of: (i) independence from government; (ii) who the senior decision-makers are (e.g. Chair, Chief Executive, Chief Economists), how long they have been in position, and their professional background (lawyer, economist, academia, industry, professional services, politics, etc.); and (iii) any relevant key terms of appointment (e.g. duration of appointment) of those in leadership positions (such as Chair, Chief Executive, and Chief Economist).

The Korea Fair Trade Commission ("**KFTC**") is the relevant merger authority that enforces the Monopoly Regulation and Fair Trade Act of Korea ("**MRFTA**"), which is the primary competition law in Korea.

The KFTC is an agency under the executive branch and is a quasi-judicial body that is authorised to independently perform its functions (Article 54 of the MRFTA). The KFTC's disposition imposed on merging entities is determined through the deliberation of Commissioners.

The KFTC Chairperson is appointed by the President upon the recommendation of the Prime Minister (Article 57, Paragraph 2 of the MRFTA). The chairperson's term of office is three years, and he/she may be reappointed only for one consecutive term (Article 61 of the MRFTA).

The current head of the KFTC is Ki Jeong Han, who was appointed as chair on September 16, 2022, and formerly served as a professor of law at various universities in Korea. His term runs until September 2025.

1.2 What is the merger legislation?

The MRFTA and its Enforcement Decree govern "business combinations" (or "**mergers**"). In addition, these are the following KFTC guidelines and standards for merger control:

- Guidelines for Notification of Business Combination ("**Merger Filing Guidelines**");
- Guidelines for Review of Business Combination ("**Merger Review Guidelines**");
- Guidelines for Imposition of Administrative Fine for Violation of Business Combination Notification Provisions ("**Merger Fine Guidelines**");
- Guidelines for Remedies on Business Combination ("**Merger Remedies Guidelines**"); and
- Standards for Imposing Administrative Fine to Compel Compliance with Remedies on Business Combination.

1.3 Is there any other relevant legislation for foreign mergers?

The Foreign Exchange Transaction Act and the Foreign Investment Promotion Act would be relevant for foreign mergers as a notification obligation may arise when a foreign company acquires an interest in a Korean company.

In addition, if the target company owns certain identified "National Core Technology" ("**NCT**") or "National Strategic Technology" ("**NST**"), the Act on Prevention of Divulgence and Protection of Industrial Technology or the Act on Special Measures for Strengthening the Competitiveness of and Protecting National High-Tech Strategic Industries may apply to the acquisitions of, or investments in, the target company, respectively.

Meanwhile, if designated Strategic Goods are substantially transferred to a foreign controlling shareholder as a result of the transaction, according to the Foreign Trade Act, an export permit may be required; however, notification of the acquisitions of, or investments in, companies holding designated Strategic Goods itself is not needed.

1.4 Is there any other relevant legislation for mergers in particular sectors (e.g. digital)?

The Telecommunications Business Act, the Act on Structural Improvement of Financial Industry, and the Financial Holding Companies Act are relevant for mergers in the telecommunications and finance sectors. Pursuant to these pieces of legislation, mergers meeting certain thresholds and requirements are required to be notified to the Korea Communication Commission ("**KCC**") or the Financial Supervisory Commission ("**FSC**"), as applicable, for review.

In the review process, the KCC and the FSC must consult with the KFTC regarding whether the merger restricts competition. If the KCC or FSC has consulted with the KFTC, no separate notification to the KFTC is required.

Separately, for mergers between general online platforms, the provision of the Merger Review Guidelines relating to online platforms, as well as the other general standards for merger review, continue to apply.

1.5 Is there any other relevant legislation for mergers which might not be in the national interest?

Generally, there is no separate national security notification requirement that applies to foreign companies. However, certain restrictions may apply to foreign investment if the

investment is viewed as a threat to national security. Whether any foreign investment is considered a threat to national security is reviewed and determined by the Ministry of Trade, Industry and Energy, following deliberation by the Foreign Investment Committee, at the request of the competent Minister.

2 Transactions Caught by Merger Control Legislation

2.1 Which types of transaction are caught – in particular, what constitutes a "merger" and how is the concept of "control" defined?

Under the MRFTA, the following types of transactions constitute "business combinations" and are subject to merger control legislation:

- the acquisition of 20% or more (or 15% or more in the case of Korean-listed companies) of the total voting shares of another company;
- the acquisition of additional shares by a shareholder who already owns 20% or more (or 15% or more in the case of Korean-listed companies) of the total voting shares of another company and becomes the largest shareholder of such company through the acquisition;
- the participation of the largest shareholder in the establishment of a new joint-venture company (excluding the establishment of a Private Equity Fund ("**PEF**") defined under the Financial Investment Services and Capital Markets Act);
- the acquisition of all or a substantial part of the target company's business or fixed assets (excluding business/asset transfers between parent and subsidiary (direct share ownership of more than 50% shares));
- the statutory merger with another company (excluding mergers between parent and subsidiary (direct share ownership of more than 50% shares)); and
- the interlocking directorate; that is, a director or an employee of one company concurrently holding a position as a registered director of another company ((i) interlocking directorates between affiliates, and (ii) interlocking directorates involving less than one-third of a company's board (excluding the representative director) are excluded).

Meanwhile, "control" is not a factor that is considered in determining whether a notification to the KFTC is required (please see the answer to question 2.2 below). However, "control" is a factor that is considered in determining whether anticompetition exists. That is, a business combination that does not involve the acquisition of "control" in principle is assumed to be not anticompetitive, and a simplified review process would apply (please see the answer to question 3.11 below).

2.2 Can the acquisition of a minority shareholding or other form of influence amount to a "merger"?

Yes, the acquisition of a minority shareholding or other form of influence can amount to a "business combination" if it falls under the definition of a "business combination" under the MRFTA.

2.3 Are joint ventures subject to merger control?

Yes, the establishment of a joint venture company is subject to merger control if the thresholds in the MRFTA are met.

2.4 What are the jurisdictional thresholds for the application of merger control?

Under the MRFTA, a transaction is subject to notification if it is a "business combination", as explained in the answer to question 2.1 above, and meets either of the existing size-of-parties thresholds or new size-of-transaction thresholds:

- **Existing size-of-parties threshold**: A party to the transaction has the total worldwide assets or total worldwide turnover (including those of its affiliates) equal to or greater than KRW 300 billion (approximately EUR 203.38 million, USD 219.53 million) during the immediately preceding business year; and the other party to the transaction has the total worldwide assets or total worldwide turnover (including those of its affiliates) equal to or greater than KRW 30 billion (approximately EUR 20.34 million, USD 21.95 million) during the immediately preceding business year.
  The total assets or total turnover is calculated by adding the total assets or total turnover of companies that maintain the status of an affiliate before and after the transaction. However, in a business transfer, when calculating the total assets or total turnover of the company that is transferring the assets, the total assets or total turnover of the company's affiliates is not added. Similarly, in intragroup mergers, the total assets or total turnover of the target is calculated on a standalone basis.
  In the case of a foreign-to-foreign merger or Korean-to-foreign merger, the following requirements must additionally be met (this does not apply to a foreign company's acquisition of a Korean company): the Korean turnover of each of the two foreign companies in a foreign-to-foreign merger and the Korean turnover of the target foreign company in a Korean-to-foreign merger (including turnover of affiliates) is equal to or greater than KRW 30 billion (approximately EUR 20.34 million, USD 21.95 million).
- **Size-of-transaction threshold**: The size-of-transaction-based threshold, which was newly added in 2021 in addition to the existing size-of-parties threshold, ("**size-of-transaction threshold**") consists of the (i) "Transaction Value Test", and (ii) "Korean Activities Test":
  (i) **Transaction Value Test**: the transaction value is KRW 600 billion (approximately EUR 406.77 million, USD 439.05 million) or more; and
  (ii) **Korean Activities Test**: (a) the target has ever sold or provided products or services to at least one million people per month in the Korean market during the immediately preceding three years; or (b) the target has either leased research and development ("**R&D**") facilities or used R&D personnel in Korea and has ever had an annual R&D budget of at least KRW 30 billion (approximately EUR 20.34 million, USD 21.95 million) for the Korean market during the immediately preceding three years.
  The guidelines lay out each factor considered in applying the Korean Activities Test of the size-of-transaction threshold as the following. Regarding item (a), if the target's services to be provided in Korea

are internet-based services, the number of monthly customers that purchase those services is determined based on the number of monthly active users or visitors. Regarding item (b), the annual R&D budget is determined based on the sum of the target's (i) annual ordinary R&D expenses, and (ii) other R&D costs accounted as intangible assets.

Meanwhile, the local nexus test (i.e., requiring each of the parties to a foreign-to-foreign or Korean-to-foreign merger to have an annual Korean turnover of at least KRW 30 billion), which was a part of the size-of-parties threshold, does not apply to the size-of-transaction threshold. In this regard, a foreign-to-foreign merger that does not meet the local nexus test could be subject to a merger notification in Korea if a specific foreign-to-foreign transaction meets the size-of-transaction threshold.

2.5 Does merger control apply in the absence of a substantive overlap?

Yes, regardless of whether there is a substantive overlap, if the thresholds in the answer to question 2.4 above are met, then the transaction is subject to notification.

2.6 In what circumstances is it likely that transactions between parties outside your jurisdiction ("foreign-to-foreign" transactions) would be caught by your merger control legislation? Is there a specific local nexus test or safe harbour?

Foreign-to-foreign transactions would be subject to notification when the thresholds in the MRFTA are met. For specific notification thresholds applied in foreign-to-foreign transactions, please see the answer to question 2.4 above.

2.7 Please describe any mechanisms whereby the operation of the jurisdictional thresholds may be overridden by other provisions.

There are mechanisms whereby the operation of the jurisdictional thresholds may be overridden by other provisions – including certain exemptions from merger notification requirements provided under the MRFTA and available to business combinations of special companies established pursuant to the laws of Korea. That said, those exemptions seldom apply to foreign-to-foreign mergers or foreign-to-Korean mergers, and as such, they will not be discussed in detail here.

2.8 Where a merger takes place in stages, what principles are applied in order to identify whether the various stages constitute a single transaction or a series of transactions?

In principle, for a merger that takes place in stages, each stage must be reviewed separately to determine whether it would constitute an independent transaction subject to a notification obligation.

However, (i) where there is a resale immediately after the acquisition of shares or during the notification period, or (ii) where two or more mergers arise from a single agreement, it is possible to consider the various stages as a single transaction and submit a notification for only the main transaction. In these cases, the whole transaction must be specifically explained in detail in the notification.

3 Notification and its Impact on the Transaction Timetable

3.1 Where the jurisdictional thresholds are met, is notification compulsory and is there a deadline for notification?

Where the thresholds are met, notification is compulsory. There are two types of notification: (i) pre-closing notification; and (ii) post-closing notification.

Pre-closing notification is required where one or more of the parties to the merger is a large-scale corporation with total worldwide assets or total global turnover (including those of its affiliates) equal to or greater than KRW 2 trillion (approximately EUR 1,356 million, USD 1,464 million) as of the immediately preceding business year. In principle, the pre-closing notification need only be filed before the closing date. There is no deadline for the pre-closing notification itself – meaning there is no requirement that the pre-closing notification should be submitted within a certain period of signing the agreement. However, in the case of a business transfer, where payment of the purchase price is completed more than 90 days after the signing date, the date that falls 90 days after signing is deemed the "closing date" for notification purposes. Accordingly, in such cases, the pre-closing notification must be submitted no later than 90 days from the signing date. Furthermore, the merger may not be closed without the KFTC's clearance.

In the case of a transaction that is subject to a post-closing notification, the MRFTA requires the notification within 30 calendar days from the closing date.

3.2 Please describe any exceptions where, even though the jurisdictional thresholds are met, clearance is not required.

There are no exceptions where, even though the jurisdictional thresholds are met, clearance is not required.

3.3 Is the merger authority able to investigate transactions where the jurisdictional thresholds are not met? When is this more likely to occur and what are the implications for the transaction?

Yes, the KFTC may investigate transactions where the jurisdictional thresholds are not met. However, the KFTC rarely initiates investigations of transactions that do not meet the jurisdictional threshold.

3.4 Where a merger technically requires notification and clearance, what are the risks of not filing? Are there any formal sanctions?

Yes, an administrative fine of up to KRW 100 million (approximately EUR 67,794, USD 73,175) may be imposed if there is a failure to file or if there are misrepresentations in a required notification. The Merger Fine Guidelines address the calculation mechanism for an administrative fine in detail.

3.5 Is it possible to carve out local completion of a merger to avoid delaying global completion?

While it is technically possible, the KFTC has negative views about carving out the local completion of a merger to avoid delaying global completion.

3.6 At what stage in the transaction timetable can the notification be filed?

The notification can be filed before or after the closing, depending on each case.

In the case of mergers subject to a pre-closing notification, the notification may be filed after the execution of a binding transaction agreement.

The parties may file a voluntary pre-merger notification (which is not a formal merger filing but a request to the KFTC to conduct a preliminary review of the proposed transaction in advance) even before the execution of a binding transaction agreement if the parties to the transaction can demonstrate their intention to enter into such agreement to the KFTC, for example, based on a memorandum of understanding, a letter of intent, or a draft of the transaction agreement.

In the case of mergers subject to a post-closing notification, the MRFTA requires the post-closing notification to be filed within 30 calendar days from the closing date.

3.7 What is the timeframe for scrutiny of the merger by the merger authority? What are the main stages in the regulatory process? Can the timeframe be suspended by the authority?

The initial review period is 30 calendar days from the date of filing of the notification; however, the KFTC may extend it by an additional 90 calendar days, if necessary. When the review period is extended, the KFTC simply gives notice of the extension without issuing any formal decision.

If the KFTC issues a request for additional information ("**RFI**"), the review period will be suspended until the submission of all requested information.

If the KFTC's Mergers and Acquisitions Division and International Mergers and Acquisitions Division (collectively, the "**M&A Division**") determines after its review that the merger raises no anticompetitive concerns, it will issue the notice of clearance within the review period, and the review process ends.

If the M&A Division determines after its review that the merger raises anticompetitive concerns and plans to prohibit the transaction or impose remedies, it will prepare an Examiner's Report ("**ER**") based on its review and submit the ER to the Commissioners. The parties can submit opinions regarding the ER, and the Commissioners will hold a hearing and deliberate before making an ultimate decision and notifying the merging entities.

3.8 Is there any prohibition on completing the transaction before clearance is received or any compulsory waiting period has ended? What are the risks of completing before clearance is received? Have penalties been imposed in practice?

Yes, in the case of mergers subject to a pre-closing notification, closing the transaction before the KFTC's clearance is prohibited. Even if the 30-day review period discussed above in the answer to question 3.7 expires, it is not regarded as an automatic clearance, and the parties may not close the transaction before the KFTC grants clearance. The risks in completing before clearance is received are explained in the answer to question 3.4 above. In practice, the KFTC frequently issues an administrative fine.

3.9 Is a transaction which is completed before clearance is received deemed to be invalid? If so, what are the practical consequences? Can validity be restored by a subsequent clearance decision?

No, a transaction that is completed before clearance is not deemed invalid. For reference, although there is a statute that allows the KFTC to file a lawsuit with the court seeking invalidation of a statutory merger or establishment of a company, the statute is ineffectual or defunct in practice.

3.10 Where notification is required, is there a prescribed format?

Yes, there is a prescribed format for each type of merger, and a notification must be submitted in accordance with the applicable prescribed format with the required information and relevant documents (e.g., a copy of the agreements, minutes of a board/shareholder meeting, the certificate of incorporation, annual reports, and financial statements).

3.11 Is there a short form or accelerated procedure for any types of mergers? Are there any informal ways in which the clearance timetable can be speeded up?

According to the Merger Review Guidelines, a transaction may qualify for a simplified review in the case of (i) an intragroup transaction, (ii) a transaction that does not involve the acquisition of control, (iii) a conglomerate merger of companies with total assets or a total turnover of less than KRW 2 trillion (approximately EUR 1,356 million, USD 1,464 million), (iv) a conglomerate merger that does not involve any overlap or relevance among the respective products of the parties, or (v) participation in the establishment of an overseas joint-venture company that is not likely to affect the Korean market, etc. In principle, a merger qualified for a simplified review will be granted clearance from the KFTC within 15 calendar days from the date of the merger filing.

According to the Merger Filing Guidelines, a simplified notification form may be used in any of the following circumstances: (i) an intragroup transaction; (ii) an investment participating as a new limited partner by making additional investment in a PEF under the Financial Investment Services and Capital Markets Act; and (iii) mergers with Special Purpose Companies under the Asset-Backed Securitisation Act.

Meanwhile, it is possible to shorten the review period by filing a voluntary pre-merger notification to the KFTC before signing a transaction agreement (please see the answer to question 3.6 above).

Additionally, the KFTC may decide to process the review more quickly if the parties are able to persuasively present the absolute necessity for closing to occur by a certain time to the KFTC. However, this is entirely up to the KFTC's discretion and may not always be effective.

For reference, the KFTC recently introduce a pre-notification consultation system that would enable an efficient filing and review process. This system is not mandatory, but it is available as an option to the parties.

3.12 Who is responsible for making the notification?

The acquiring company is responsible for submitting the notification to the KFTC. In the event a transaction vehicle is used,

the transaction vehicle – which would be the direct acquiring entity – bears the notification obligation, not the ultimate acquiring company. When a joint venture is established, its largest shareholder is responsible for making the notification.

3.13 Are there any fees in relation to merger control? When are these payable?

No, there are no fees for filing the notification.

3.14 What impact, if any, do rules governing a public offer for a listed business have on the merger control clearance process in such cases?

In the case of a public offer for a listed business, even if one of the parties to the transaction is a large-scale corporation with total worldwide assets or total worldwide turnover (including those of its affiliates) equal to or greater than KRW 2 trillion (approximately EUR 1,356 million, USD 1,464 million) as of the immediately preceding business year, the transaction would be subject to a post-closing notification. This exception does not apply to all public offers under foreign laws and applies only to a public offer that is recognised as being similar to a tender offer under Korean law.

3.15 Are notifications published?

No, the KFTC does not publish all or part of the notification. However, the KFTC may publish its decision or distribute a press release in certain circumstances (e.g., prohibition or conditional clearance with remedies). In addition, even when the KFTC grants unconditional clearance, the KFTC may distribute a press release, although it would only occur in a case where the transaction is of substantial importance in Korea.

4 Substantive Assessment of the Merger and Outcome of the Process

4.1 What is the substantive test against which a merger will be assessed?

According to the MRFTA, a horizontal merger between competitors is presumed to be anticompetitive when all the following conditions are met: (i) the combined entity has a market share of 50% or more (or the top three market players, including the combined entity, have an aggregate market share of 75% or more); (ii) the collective market share of the combined entity is the largest in the relevant market; and (iii) the market share difference between the combined entity and the second-largest company is equal to or greater than 25% of the collective market share of the combined entity.

Pursuant to the Merger Review Guidelines, a horizontal merger between competitors is presumed not to be anticompetitive in any of the following cases: (i) the Herfindahl-Hirschman Index ("**HHI**") of the relevant market is less than 1,200; (ii) the HHI of the relevant market is 1,200 or more and less than 2,500, and the increase in such HHI as a result of the proposed merger is less than 250; or (iii) the HHI of the relevant market is 2,500 or more and the increase in such HHI as a result of the proposed merger is less than 150. If a merger falls under a "safe harbour" based on its HHI value, the KFTC is highly likely to end its review without raising any particular anticompetitive concerns.

If the question of whether a contemplated merger will be anticompetitive cannot be clearly determined based on the two types of analysis noted above, then the KFTC will review and determine whether the merger is anticompetitive based primarily on the following factors: (i) whether the combined entity can unilaterally increase prices ("**Unilateral Effects**"); and (ii) whether a possibility of concerted practices will increase after the closing of the merger ("**Coordinated Effects**").

4.2 To what extent are efficiency considerations taken into account?

In principle, even if anticompetition is recognised, if a party to the contemplated merger successfully proves that efficiency gain is greater than potential anticompetitive harm, the merger may be permitted. That said, in practice, there are almost no cases where the KFTC permitted an anticompetitive merger based on the grounds that there are potential efficiency gains.

4.3 Are non-competition issues (e.g. employment, economic policy, investment and economic growth) taken into account in assessing the merger?

In principle, the KFTC does not consider non-competition issues (including employment, economic policy, investment and economic growth) when assessing mergers. The KFTC's review is generally based on objective standards, and one of the important factors considered by the KFTC is the likelihood of anticompetitive effects of the transaction on the relevant market in Korea. The KFTC decision is generally not influenced by politics; however, the KFTC does try to protect small and medium-sized local enterprises and consumers. In addition, our understanding is that the KFTC conducts a more thorough review of foreign mergers that would have significant effects on the Korean industries.

4.4 What is the scope for the involvement of third parties (or complainants) in the regulatory scrutiny process?

When the KFTC recognises the necessity, it may consider the opinions of interested parties. In the case of a merger with anticompetitive concerns, the KFTC often inquires about the opinions of third parties (including competitors, customers, suppliers and experts) and takes their opinions into consideration.

4.5 What information gathering powers (and sanctions) does the merger authority enjoy in relation to the scrutiny of a merger? Is there a requirement to provide internal documents as part of the filing?

If a merger notification and/or supporting evidence filed by the notifying party is incomplete or inadequate, the KFTC can order the notifying party to provide supplementary information. The KFTC also frequently requests the submission of internal documents of the parties that were reviewed in connection with the transaction. If the notifying party fails to submit the supplementary documents without any good reason or submits false information, the KFTC has the authority to impose an administrative fine of up to KRW 100 million (approximately EUR 67,794 or USD 73,175).

4.6 During the regulatory process, what provision is there for the protection of commercially sensitive information?

There is no specific provision in the MRFTA for the protection of commercially sensitive information; however, even if the relevant party has not made a request for the protection, the KFTC considers the notification and related submissions as business secrets and does not disclose them to the public. Even if the KFTC decision is published, all sensitive information would be deleted if such a request is made by the relevant party before the KFTC decision is disclosed publicly.

5 The End of the Process: Remedies, Appeals and Enforcement

5.1 How does the regulatory process end?

Please refer to the explanation of the regulatory process in the answer to question 3.7. The KFTC will issue a written notice of its decision.

5.2 Where competition problems are identified, is it possible to negotiate remedies which are acceptable to the parties?

Yes, it is possible. The amended MRFTA, which took effect on August 7, 2024, allows the parties to submit a remedy proposal to the KFTC. The KFTC will review the proposed remedies submitted by the notifying parties, and if the KFTC determines that they are insufficient for eliminating all the anticompetitive concerns, the KFTC may request the parties to revise or supplement the proposed remedies. If the KFTC finds that the proposed remedies are sufficient to resolve the competition problems, it may grant conditional clearance.

5.3 Are there any (formal or informal) policies on the types of remedies which the authority will accept, including in relation to vertical mergers?

In principle, the KFTC must impose structural remedies. Behavioural remedies may be imposed additionally as a supplement to assist in the effective performance of the structural remedies. Behavioural remedies may be imposed instead of structural remedies if the latter is deemed inappropriate. The KFTC tends to be open to behavioural remedies in comparison to some of the other competition authorities.

5.4 To what extent have remedies been imposed in foreign-to-foreign mergers? Are national carve-outs possible and have these been applied in previous deals?

The KFTC imposes remedies in foreign-to-foreign mergers by applying the same standards used for other non-foreign-to-foreign mergers. Though the regulations are unclear as to whether national carve-outs are possible, it would be safe to assume that national carve-outs are impossible given that there have not been any previous deals where national carve-outs have been applied.

5.5 At what stage in the process can the negotiation of remedies be commenced? Please describe any relevant procedural steps and deadlines.

The parties may commence the negotiation of remedies by submitting proposed remedies or an application for commencement of the consent decree process any time before the KFTC holds a hearing and renders a decision.

5.6 If a divestment remedy is required, does the merger authority have a standard approach to the terms and conditions to be applied to the divestment?

Yes, regarding a divestment remedy, the Merger Remedies Guidelines specifically address the assets that are subject to divestment, the buyer in the divestment transaction, the divestment agreement, the timeframe for performing the divestment remedy, and the accompanying obligations, among other things.

5.7 Can the parties complete the merger before the remedies have been complied with?

Yes, under the MRFTA, the KFTC cannot impose the so-called "fix-it-first" remedy or the "up-front buyer" remedy. That is, the KFTC can only order the divestment of assets within a certain period of time from the date that the remedies are imposed (please see the answer to question 5.6 above) and cannot demand that divestment be completed or that the transaction agreement for divestment be executed before it grants clearance.

5.8 How are any negotiated remedies enforced?

The KFTC can have the parties report, or independently take necessary measures to confirm (e.g., RFIs or on-site investigations), the status of performance of the remedies.

In case the remedies are not performed within the timeframe given, certain administrative fines to compel compliance with the remedies may be imposed, not exceeding 0.03% of the total transaction amount for each day of delay. Furthermore, the KFTC may impose imprisonment of up to two years or a fine of up to KRW 150 million (approximately EUR 101,691, USD 109,763).

5.9 Will a clearance decision cover ancillary restrictions?

There are no provisions on this issue under the MRFTA, nor are there any relevant KFTC precedents. That said, even if a merger with ancillary restrictions is cleared, it does not mean that the KFTC approved those restrictions as lawful. Accordingly, we cannot completely rule out the possibility that another government agency or a division of the KFTC other than the M&A Division (e.g., the Cartel Division) may raise an issue later after the clearance decision.

5.10 Can a decision on merger clearance be appealed?

Yes, a decision on merger clearance can be appealed by the parties to the merger (to the KFTC for reconsideration or to

the Seoul High Court) or a third party (through the submission of a constitutional complaint to the Constitutional Court of Korea).

5.11 What is the time limit for any appeal?

If a party wishes to appeal the KFTC decision and decides to appeal to the KFTC itself (the first option in the answer to question 5.10), that appeal must be filed within 30 calendar days of receiving the notice of the KFTC's measures. If a party wishes to appeal the KFTC decision by filing an appeal with the Seoul High Court, the appeal must be filed within 30 calendar days of receipt of the notice of the KFTC's measures or receipt of an official copy of the KFTC's decision after the KFTC's reconsideration of the appeal.

5.12 Is there a time limit for enforcement of merger control legislation?

Yes, even if a merger notification obligation was not carried out, if five years have passed since the date of the violation of the obligation, the KFTC may not impose an administrative fine. Moreover, even if a merger is later determined to be anticompetitive, if seven years have passed from the date of closing of the merger, the KFTC may no longer impose remedial measures.

6 Miscellaneous

6.1 To what extent does the merger authority in your jurisdiction liaise with those in other jurisdictions?

The KFTC has been actively cooperating with foreign competition authorities in reviewing mergers of global companies.

6.2 What is the recent enforcement record of the merger control regime in your jurisdiction?

In 2024, the KFTC examined a total of 798 merger cases, 176 of which involved foreign entities, accounting for approximately 22.06% of all merger cases. The KFTC blocked one merger and imposed remedies in two out of the 798 cases for being anticompetitive.

Major cases in 2024 where the KFTC determined that the transactions were anticompetitive are as follows:

- In March 2024, the KFTC prohibited the acquisition by MegaStudyEdu (the second player in the civil service exam preparation market) of shares in STUnitas (the market leader). The KFTC determined that the merger would eliminate a significant competitive force, creating serious concerns over the restriction of competition, and concluded that neither behavioural remedies nor divestiture would be sufficient to fundamentally resolve these concerns.
- In May 2024, the KFTC imposed behavioural remedies in the acquisition of shares of SM Entertainment (the leading company in the domestic market for planning and production of digital sound recordings) by Kakao and Kakao Entertainment (affiliates of Kakao Group, a major player in the domestic market for the planning and production of digital sound recordings and the No. 1 operator in both the digital sound recordings distribution and platform markets). The KFTC found that the acquisition of SM's strong portfolio of digital sound recordings by Kakao Group could significantly restrain competition in the planning, production, or distribution markets for digital sound recordings.
- In July 2024, the KFTC imposed behavioural remedies in the acquisition of shares of STX Heavy Industries (a manufacturer of two-stroke marine engines and engine parts) by HD Korea Shipbuilding & Offshore Engineering (part of a vertically integrated domestic shipbuilding group). The KFTC determined that the combined entity might discriminate against or block rival engine manufacturers' access to crankshafts (a core component of marine two-strike engines).

6.3 Are there any proposals for reform of the merger control regime in your jurisdiction?

As discussed above, under the amended MRFTA (effective August 7, 2024), filing exemptions apply to (i) the establishment of PE funds pursuant to the Financial Investment Services and Capital Markets Act, (ii) mergers and business/asset transfer between parent and subsidiary as defined in the Commercial Code, (iii) interlocking directorates involving less than one-third of a company's board (excluding the representative director), and (iv) mergers between subsidiaries involving a target (on standalone basis) with total assets or worldwide revenue of less than KRW 30 billion. In addition, a system that allows the parties to submit a remedy proposal has been introduced by the amended MRFTA.

Furthermore, the KFTC introduced a pre-notification consultation system that is not mandatory but optional to the parties.

The KFTC recently announced that new types of mergers are emerging in new industries such as artificial intelligence ("**AI**"), involving the recruitment of key personnel and acquisition of licences. The KFTC stated that it plans to review the need for institutional improvements to respond effectively to these developments.

6.4 Please identify the date as at which your answers are up to date.

The answers are up to date as at August 22, 2025.

7 Is Merger Control Fit for Digital Services & Products?

7.1 In your view, are the current merger control tools suitable for dealing with digital mergers?

Based on the accumulated experience from its review of a number of digital mergers, such as the recent merger between delivery apps, mergers in the online travel agencies ("**OTA**") Ifield, and acquisition of a content company by a digital music platform operator, the KFTC amended the Merger Review Guidelines in April 2024 to reflect various characteristics of the modern digital economy.

The amended standard of review clarifies (i) how to define the relevant market in cases where services are provided for free (e.g., consumers view advertisements or agree to provide personal data in exchange for free services), and (ii) that the KFTC may consider network effects when analysing anticompetitive effects. In addition, (iii) even if an online platform

acquires a business in another industry that provides services that are not complementary to its own services (conglomerate merger), it will be subject to regular review, rather than simplified review, if the acquired business provides goods and services to an average of five million or more people per month.

Furthermore, the KFTC recently announced its plan to review the need for institutional improvements to effectively address new types of mergers emerging in innovative sectors such as AI, including those involving the recruitment of key personnel and the acquisition of licences.

As such, the KFTC is keenly interested in regulating online platforms and is therefore expected to continue to review and supplement its merger review standard for digital mergers.

7.2 Have there been any changes to law, process or guidance in relation to digital mergers (or are any such changes being proposed or considered)?

As noted above in the answer to question 7.1, the amended Merger Review Guidelines took effect from May 1, 2024.

7.3 In your view, have any cases highlighted the difficulties of dealing with digital mergers? How has the merger authority dealt with such difficulties?

No, we are not aware of any cases that have highlighted the difficulties of dealing with digital mergers.

John H. Choi has been at the forefront of many of the leading antitrust cases, including major international cartel cases and abuse of market dominance cases. Mr. Choi was also an adjunct professor of law at Seoul National University, College of Law, Korea's top undergraduate school of law, and has been ranked as band 1 by *Chambers and Partners Asia* and *The Legal 500 Asia*. Mr. Choi has been a non-government advisor for the International Competition Network ("ICN").

Mr. Choi's recent notable speaking engagements include: speaking at the ICN 2016 annual meeting on refusal to supply; speaking at the 2016 International Bar Association Annual Conference on IP and antitrust; speaking at the ICN 2015 annual meeting on making efficiency assessments more effective; lecturing at Korea University on conglomerate mergers; speaking at various *Global Competition Review* conferences; speaking at the European Chamber of Commerce in Korea luncheon on "Competition Law 2015 – Panorama of antitrust enforcement in Europe and Korea"; and presenting on US and EU enforcement practices at a cartel workshop hosted by the KFTC. Mr. Choi is also a prolific writer.

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Sangdon Lee is involved in approximately 100 merger filing cases each year and is one of the attorneys handling the largest number of merger control cases in Korea. Mr. Lee has represented clients in the most complex cases that the KFTC has recently handled or is handling, including *Google/Motorola Mobility*, *Linde/Praxair*, *SK Broadband/T-Broad*, *Fiat Chrysler Automobiles/PSA Group*, *ZF Friedrichshafen/WABCO* and *Korean Air/Asiana Airlines*. Notably, he acted for Google as lead counsel when Google successfully obtained unconditional clearance to acquire Motorola Mobility, and for Linde as lead counsel when Linde successfully obtained conditional clearance to merge with Praxair. Given the foregoing, he is one of the top-ranked antitrust lawyers with the highest track record in advising clients on merger filings in Korea.

Mr. Lee has published numerous articles on merger control issues in the academic journals widely known and highly regarded among Korean legal academics and professional practitioners.

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