SHIN & KIM

Unfair Trade Practice

The Monopoly Regulation and Fair Trade Act of Korea (the "MRFTA") provides for a unique regulatory regime that prohibits certain unfair trade practices, which is separate from abuse of market dominance. Companies that are not in a market dominant position may still be subject to sanctions for engaging in unfair trade practices and interfering with free competition in the market if their activities fall under any of the categories set out in the MRFTA. These categories include refusal to deal, discriminative transaction terms, exclusion of competitors, unfair luring of customers, coerced transactions, abuse of superior bargaining position, trading with restrictive conditions, interference with other's business activities, and unfair support. While many of these restricted practices overlap with those of abuse of market dominance, the regulations restricting unfair trade practices are separate from those regulating abuse of market dominance under the MRFTA.

Common day-to-day business activities can pose legal risks of unfair trade practices under the MRFTA and it is essential to continuously assess and verify all aspects of a business' operations to ensure that there are no violations.

The increasing public attention given to the unfair practices engaged by large operators to take advantage of small suppliers or other businesses with no bargaining power has led to more stringent regulation of unfair trade practices, along with more frequent criminal referrals and sanctions. With a wealth of experience in advising clients on unfair trade practices, Shin & Kim's antitrust and competition team provides comprehensive advice by understanding and assessing business practices and activities, identifying potential risks and offering practical and effective solutions to reduce such risks.

Key Services

Shin & Kim provides the following services in relation to unfair trade practices:

- Assessing business operations and advising on potential violations for unfair trade practices and practical solutions to reduce antitrust risks
- Guiding clients through KFTC investigations for unfair trade practice and representing clients at all stages of investigation and at the KFTC hearings and proceedings
- Defending clients in administrative lawsuits for unfair trade practices and appealing any adverse decision by the KFTC

- Representing and advising clients in cases brought to mediation by the Korea Fair Trade Mediation Agency

Experience

- Company S, in KFTC proceedings for alleged unfair luring of customers and administrative action
- Company P, in KFTC proceedings for alleged unfair transaction with restrictive conditions
- Other major corporations, in assessing and advising on day-to-day trade practice and potential violations

Key Contacts

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Awards and Rankings

- Ranked Band 1 Law Firm for Competition/Antitrust
  Chambers Asia 2016-2026
- Ranked Tier 1 Law Firm for Antitrust and Competition
  Asia Pacific Legal500 2017-2019, 2025-2026
- Ranked Elite Law Firm
  GCR 100 2017-2026
- Regional Firm of the Year – Asia-Pacific, Middle East & Africa
  GCR100 2016

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