SHIN & KIM

Antitrust & Competition Criminal Defense

Violations of antitrust and competition law are no longer confined to administrative sanctions such as administrative surcharges and corrective orders. Increasingly, these matters escalate into criminal proceedings, triggered either by criminal referrals from the Korea Fair Trade Commission (the "KFTC") or through direct investigations initiated by law enforcement authorities. Because potential criminal liability extends beyond the corporate entity to executives, employees, and members of the controlling family, corporations must establish a coordinated defense strategy that addresses both administrative and criminal proceedings from the earliest stage of a KFTC investigation.

Criminal penalties apply to a wide range of conduct under the Monopoly Regulation and Fair Trade Act (the "MRFTA"). These include unfair collaborative acts (cartels and bid-rigging), abuse of market dominance, unfair inter-affiliate support, the provision of undue benefits to specially related persons, retaliatory measures and unfair trade practices such as the abuse of superior bargaining position. A company's initial response during a KFTC investigation may directly dictate whether the Commission files a criminal referral and may fundamentally influence the trajectory of subsequent criminal proceedings. Furthermore, the KFTC's exclusive criminal referral framework and leniency program are closely linked to whether criminal liability is established or waived, making a consistent, strategic approach imperative from day one.

Shin & Kim LLC's Antitrust & Competition Criminal Defense Team delivers comprehensive legal representation by pairing premier antitrust regulatory experience with its criminal defense capabilities. We advise and represent clients across the entire lifecycle of an enforcement matter, from initial KFTC on-site investigations and hearings to criminal referrals, prosecutorial investigations, indictments and trial defense. Drawing on extensive experience across both advisory and contentious matters, our practice extends well beyond the MRFTA. We advise and represent clients across the full spectrum of fair-trade related legislation, including the Fair Transactions in Subcontracting Act, the Act on Fair Transactions in Large Retail Business, the Fair Transactions in Franchise Business Act, the Fair Agency Transactions Act, the Act on Fair Labeling and Advertising, the Act on the Regulation of Terms and Conditions, and the Act on Door-to-Door Sales.

Our team closely examines transaction structures and corporate decision-making processes to build customized defense strategies. We determine the appropriate scope of document production, prepare personnel for regulatory and prosecutorial questioning, and manage on-site responses to searches and seizures, and present clear defense theories

at each stage of the proceedings. In complex cases where regulatory enforcement intersects with criminal liability, Shin & Kim provides end-to-end risk management to minimize operational disruption and legal liability for both corporations and individual personnel.

Key Services

Shin & Kim provides the following services in connection with antitrust & competition criminal defense matters:

- Assessing potential violations of antitrust and competition laws and related criminal exposure for companies, executives and employees
- Representing clients during KFTC on-site investigations, summonses, questioning, information requests, and hearings
- Advising and representing clients in connection with criminal referrals by the KFTC as well as referral requests by relevant external authorities
- Preparing and submitting leniency applications in cartel investigations and securing criminal immunity for the corporation, executives, and employees
- Conducting internal investigations and digital forensic assessments to diagnose criminal exposure and establish proactive defense strategies
- Advising on-site during searches and seizures by the prosecutors and the police, preparing executives and employees interviews for interrogation, and defending clients throughout all phases of criminal investigation
- Delivering comprehensive representation for companies, executives and employees in criminal investigations and proceedings arising from antitrust and competition law violations

Key Contacts

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