

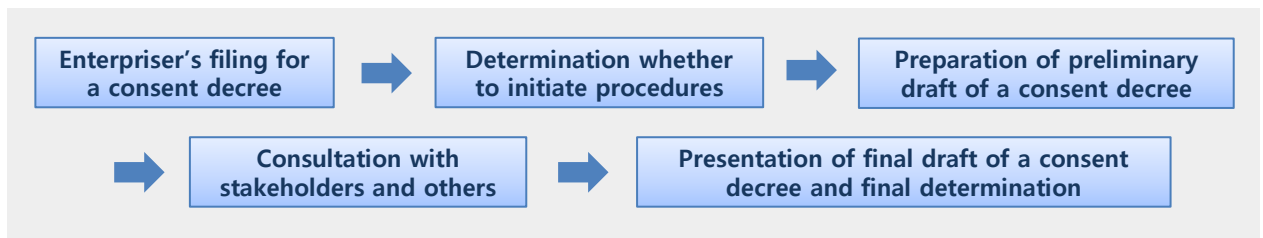
Consent Decree Procedures Finally Kick off by the KFTC

On November 27, 2013, the Korea Fair Trade Commission (hereinafter “KFTC”) held a plenary session and determined to initiate consent decree procedures as to major Korean online search/search advertising providers (hereinafter “Search Providers”).

1. Consent Decree System

- The 「consent decree system」 allows an enterpriser to voluntarily propose corrective measures – such as measures to remedy harm to consumers and compensate damages – to the KFTC. Through consultation with stakeholders among others, the KFTC determines whether the proposed measures are appropriate and, if so, promptly closes the case without determination of illegality (Article 51-2 of the Monopoly Regulation and Fair Trade Act; hereinafter “MRFTA”).

< Consent Decree Procedures >



※ In the event Article 19(i) of the MRFTA (i.e., improper collaborative acts) and Article 71(ii) of the MRFTA (i.e., conditions for prosecutorial referral) apply, the consent decree system won't be available.

2. Search Providers' Filing for Consent Decree and KFTC's Determination to Initiate Consent Decree Procedures

- The Search Providers filed for a consent decree while they were under the KFTC's investigation in regards to their alleged abuse of market dominance and acts of unfair support in online search and advertising markets. Based on the following grounds, the KFTC determined to initiate consent decree procedures:
 - (1) online search and search advertising markets are innovative markets with rapid changes and technological advances;
 - (2) given that online search is closely related to everyday life, prompt restoration of competition is required;
 - (3) voluntary proposed corrective measures may provide sufficient compensation; and
 - (4) competition authorities in other jurisdictions have issued a consent decree under similar circumstances to the present case.

(Continued)

- The KFTC and enterpriser(s) concerned must prepare a preliminary draft of a consent decree within 30 days from the date the KFTC determines to initiate consent decree procedures. Thereafter, the KFTC will consult stakeholders, relevant ministries, and the Prosecutor General (e.g., by written consultation) for 30 to 60 days, and then present a final draft of a consent decree and make a final determination.

3. Companies are Advised to Take Heed and Consider the Use of Consent Decree System in the Future

- This is the first case the KFTC initiated consent decree procedures since the consent decree system was adopted in November 2011 by amendment of the MRFTA. As such, this case receives careful attention with an expectation that the KFTC would utilize the consent decree system more extensively.
- Above all, the consent decree system may enable an enterpriser to minimize damage to its brand by voluntarily proposing corrective measures, and to avoid cost and time arising from the KFTC's investigation by prompt resolution.

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