

Class actions coming to Korea

Faaez Samadi
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New legislation has been proposed in Korea to open the door to private antitrust damages lawsuits, a Fair Trade Commission official announced today. Faaez Samadi in Singapore

Dae-Young Kim, head of the KFTC's international division, said the future for Korean competition law enforcement lay in the courtroom through private damages claims.

Kim was speaking at GCR Live's Annual Law Leaders Asia-Pacific conference in Singapore. He said the KFTC's proposals include provisions for class action lawsuits, treble damages and injunctions, and that these would work alongside public enforcement to "compensate consumers damaged".

Sai Ree Yun, at Yulchon in Seoul, said the proposals were in line with the KFTC's "aggressive" stance towards antitrust enforcement. In 2012 the authority handled 52 behavioural cases and issued US\$620 million in fines, Yun said.

"If you have a global competition issue, do not omit Korea just because it's a smaller country," Yun said. "The KFTC is the most active [competition] agency in Asia."

While agreeing that class actions were a "good idea", Yun had reservations about its potential risks.

"There could be abuse of litigation by plaintiffs, or fishing expeditions by plaintiff lawyers," he said. "Also there may be huge additional business costs for defendants."

Yun also questioned whether the KFTC's "aggressive position" supporting plaintiffs in class actions was in keeping with its policy of maintaining neutrality.



Kim responded that safeguards would be put in place regarding the class action system, such as class certification requiring court approval. He added the KFTC would guarantee neutrality by only assisting in gathering together damaged consumers and “keeping our hands off the actual [court] process”.

Kim added that the KFTC was concerned that a private damages regime could disincentivise leniency applicants, and has consequently proposed amending the law so that leniency documents are protected from disclosure proceedings.

The conference concludes today.