November 10, 2026

KFTC PROPOSES AMENDMENTS TO STRENGTHEN REGULATIONS OVER ABUSE OF MARKET DOMINANCE

I. OVERVIEW

On November 6, 2026, the Korea Fair Trade Commission (the "**KFTC**") published, for public comment, the proposed amendments to the Enforcement Decree[1] (the "**Enforcement Decree**") of the Monopoly Regulation and Fair Trade Act (the "**MRFTA**"), Korea's principal competition statute. The proposal would modernize the list of abusive practices by dominant firms under the current rules, and the standards used to assess them, to reflect how markets and KFTC enforcement have evolved. Public comments may be submitted until December 16, 2026.

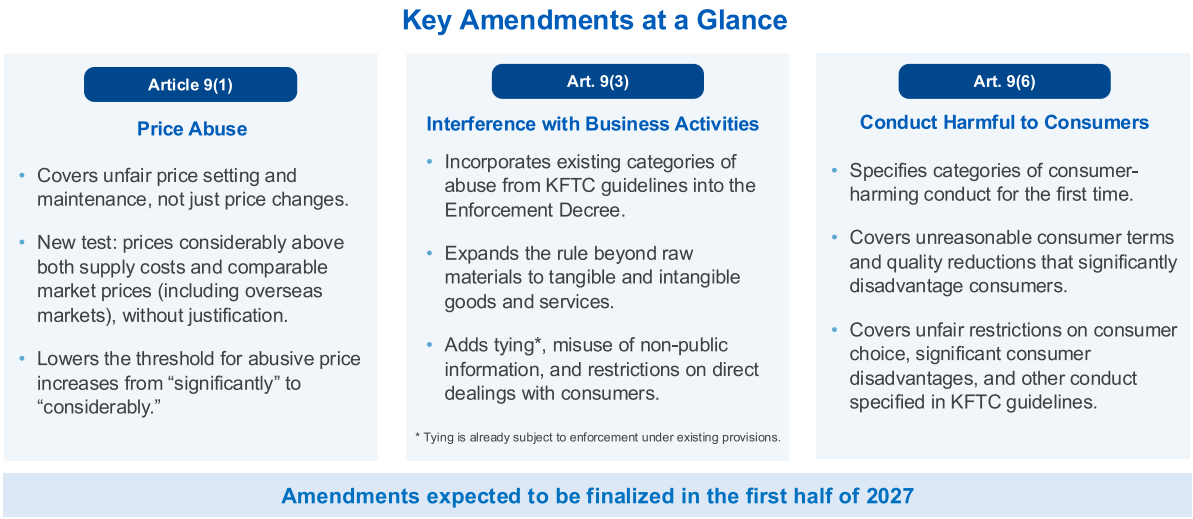
The proposal has three primary objectives: it (i) broadens the rules on excessive and exploitative pricing and makes violations easier to prove; (ii) revises and adds to the categories of conduct that unlawfully interfere with other businesses; and (iii) commences listing specific forms of conduct that harm consumers. Companies should expect these changes to bear on pricing and commercial practices across the board.

For context, the Enforcement Decree's abuse-of-dominance provisions have not been touched since 2001. The KFTC itself acknowledges that the existing pricing provisions have had little practical bite because violations are so difficult to prove, as the current Enforcement Decree reaches only price changes, not the setting or maintenance of prices, and requires proof that a price increase was significant relative to changes in costs. The new categories also track the KFTC's Guidelines for Reviewing Abuse of Market Dominance by Online Platform Operators, issued in 2023.

The proposal is part of a broader push by the KFTC to step up enforcement against dominant firms. In February 2026, the agency announced that it would sharpen its focus on pricing abuses in monopolized and highly concentrated markets. In August 2026, it went further, proposing to raise the cap on fines for abuse of dominance from 6% to 20% of relevant sales and to introduce structural remedies.

The key amendments are summarized below, followed by a more detailed discussion of their implications for businesses.

1 The Enforcement Decree is the presidential decree that implements the MRFTA and specifies the types of conduct the statute prohibits.



II. KEY AMENDMENTS

1. Expansion of Price Abuse Regulation (Article 9(1) of the Proposed Enforcement Decree)

(1) Express Prohibition of Unfair Price Setting

The MRFTA itself treats the determination, maintenance, and change of prices alike as potential abuses of dominance, but the current Enforcement Decree implements only one of those three: unfair price changes. That gap has fueled a long-running debate over whether the KFTC may, under the current regime, rely directly on the statute to pursue the other two forms of pricing conduct. The proposed amendments would settle that question. They would add a distinct category of price abuse covering unfair price setting: a dominant firm would violate the rule if, without justifiable grounds, it sets prices considerably above both (i) the cost of supplying the goods or services and (ii) the normal price of the same goods or services in other markets, or of similar goods or services. Put differently, the KFTC would benchmark prices not only against cost but also against comparable markets. The KFTC has signaled that "other markets" may include foreign markets, pointing specifically to unjustifiably higher prices in Korea than abroad.

Since the current framework was adopted, the KFTC has rarely, if ever, prevailed on arguing a pricing-abuse theory; in the leading BC Card case, the courts did not reach the pricing question at all, because the companies were found not to be dominant in the relevant market (Supreme Court Decision No. 2003*Du*6283, December 9, 2005). Given the KFTC's own acknowledgment that these provisions have been hard to enforce, companies should be prepared for increased scrutiny and potential investigations under the amended rules once they take effect.

As a practical matter, companies will need to show objective, contemporaneous evidence explaining any gap between Korean and overseas prices, how their prices compare with those of comparable products, and their underlying cost structures.

That said, the proposed rule is conjunctive: both the cost-based and the comparative-price prongs must be satisfied. A high price is not, by itself, unlawful; the KFTC would still have to show that the price lacks justification and that every element of the offense is met.

(2) Revised Standards for Price Increases, Reductions, and Maintaining Existing Prices

Under the current Enforcement Decree, a dominant firm may commit a pricing abuse if it raises prices "significantly," or cuts them only marginally, relative to changes in supply and demand or in its costs. The proposal would lower the threshold for finding abusive price increases from "significantly" to "considerably," keep the existing rule on marginal price reductions, and expressly add a category of price abuse where a firm holds prices steady despite changes in supply and demand or costs. The KFTC has explained that the change is meant to make abusive price increases easier to prove.

The KFTC's current Review Guidelines on Abuse of Market Dominance (the "**Guidelines**") list several factors for assessing whether a price increase is "significant," including price trends and supply and demand conditions for the product, the producer price index, the firm's rate of price increases in export markets, and whether the firm acts as a price leader. The Guidelines are expected to be updated to reflect the new "considerable" standard once the Enforcement Decree is amended.

2. Revision and Expansion of the Categories on Interference with Business Activities (Article 9(3) of the Proposed Enforcement Decree)

The current rule on interfering with a competitor's purchase of raw materials would be broadened to cover interference with the purchase of, access to, use of, or movement of any tangible or intangible goods or services needed to do business. The change would make the provision more applicable to non-manufacturing sectors, particularly data-driven businesses and digital services.

(1) Introduction of New Categories of Abusive Conduct

The proposal would add three new categories of abuse: (i) tying, where a dominant firm unfairly requires a counterparty to buy other goods or services from it or from a designated third party; (ii) unfairly using non-public information generated or collected in dealings with a counterparty to gain a competitive edge over that same counterparty; and (iii) preventing a counterparty, without justifiable grounds, from dealing directly with consumers or communicating with them other than through an intermediary such as an online platform.

Tying is not new territory for the KFTC, which has already pursued it under existing MRFTA provisions on interference with other businesses (including current Article 9(3)(4) of the Enforcement Decree) and on conduct likely to significantly harm consumer interests (Article 5(1)(5) of the MRFTA).

In our view, the new provisions are designed to widen the KFTC's reach and strengthen its hand against practices such as (i) membership or subscription programs that effectively force customers to take separate products or services as a bundle; (ii) platform operators' use of non-public sales data from third-party sellers to develop or market their own products, including private-label products; and (iii) contract terms or platform policies that prevent third-party sellers from steering consumers to their own sales channels or dealing with consumers directly.

3. Introduction of New Categories of Conduct Harmful to Consumer Interests (Article 9(6) of the Proposed Enforcement Decree)

(1) Unreasonable Trading Conditions and Deterioration in Quality

The MRFTA already prohibits conduct that harms consumer interests, but the Enforcement Decree has not specified the types of conduct covered by such prohibition. The proposal would fill that gap by expressly covering (i) imposing trading terms on consumers that are unreasonable by normal business standards and (ii) degrading the quality of goods or services in a way that significantly disadvantages consumers.

Companies should therefore take a fresh look at how they change the features or quality of consumer-facing services, amend their terms, and notify consumers of those changes. They should also keep records documenting the extent of any quality reduction, its effect on consumers, and the legitimate business reasons behind it.

(2) Restrictions on Consumer Choice and Other Disadvantages

The proposal would also expressly cover conducts that unfairly restrict consumer choice or significantly disadvantage consumers in the supply of goods or services, along with any other consumer-harming conduct the KFTC specifies in its guidelines.

These changes signal that the KFTC may assess dominant firms' conducts not only in terms of their exclusionary effects on competitors but also in terms of direct harm to consumers. The Korean Supreme Court, however, has set meaningful limits to such enforcement authority. Although the statutory consumer-harm prohibition in Article 5(1)(5) of the MRFTA can be enforced even without implementing provisions in the Enforcement Decree (Supreme Court Decision No. 2009*Du*1983, May 27, 2010), "significant harm" to consumers must be proven with concrete evidence on a case-by-case basis, including by comparing the revised terms with those offered by other firms in comparable markets (Supreme Court Decision No. 2008*Du*16407, February 11, 2010).

III. IMPLICATIONS FOR BUSINESSES AND RECOMMENDED COMPLIANCE MEASURES

If adopted, the amendments are expected to subject a wide range of practices by dominant firms to closer KFTC scrutiny, including pricing decisions, transaction terms, data use, and the operation of consumer-facing services. At the same time, the amendments mainly clarify and expand the categories and standards in the Enforcement Decree; they do not change the fundamentals. Whether any given practice is unlawful will still turn on whether the firm is dominant, whether the elements of abuse are met, and whether the conduct is sufficiently justifiable.

Importantly, the Supreme Court's well-established standard, under which a finding of unlawful abuse requires consideration of both the conduct's anticompetitive effects and the firm's intent or purpose, will continue to apply (Supreme Court Decision No. 2002*Du*8626, November 22, 2007). The KFTC will therefore still bear the burden of establishing anticompetitive effect and intent or purpose in each case.

Separately, as announced in its August 2026 policy agenda for the second half of the year, the KFTC is seeking statutory amendments to raise the cap on fines for abuse of dominance from 6% to 20% of relevant sales. If such increase is adopted , the financial and legal stakes for companies would further rise substantially.

One point deserves particular attention. Because the amendments expressly cover maintaining existing prices, a price set before the amended Enforcement Decree takes effect could still be challenged if it stays unchanged after the effective date despite declining costs, absent justifiable grounds. Companies should therefore review the cost trends for their key products, their price adjustment history, and the reasons behind their pricing decisions.

In particular, we recommend that companies review their commercial policies and compliance programs in the following areas:

- **First, establish reasonable justifications for pricing decisions including maintaining existing prices**.

  Under Article 6 of the MRFTA, a firm is presumed dominant if it has a market share of at least 50%, or if the three largest firms together hold at least 75% (disregarding firms with less than 10% individually). Firms that meet these thresholds should expect closer KFTC scrutiny of price gaps between Korea and overseas markets, and of any asymmetry in the timing or size of their price adjustments when costs rise versus when they fall.

  Exchange rates, taxes, logistics costs, differences in locally provided services, and lags in passing through cost changes under long-term supply contracts may all help establish justifiable grounds for price differences. Companies should document the rationale for pricing decisions and later adjustments at the time they are made. They should also keep in mind that the KFTC has the power to order price reductions as a corrective measure under Article 7(1) of the MRFTA.

- **Second, review transaction terms and data use practices.**

  Online platform operators and distributors in particular should consider whether (i) their bundled offerings, such as memberships or subscriptions, effectively force customers to take separate products or services; (ii) they have adequate internal controls to prevent the misuse of non-public data from third-party sellers and other business partners in developing or selling their own products; and (iii) their contract terms or operating policies prevent third-party sellers from steering consumers to outside sales channels or dealing with them directly.

- **Third, review procedures for operating and modifying consumer-facing services.**

  Before making changes that could disadvantage consumers, such as revising pricing plans, cutting service features, or amending terms, companies should assess whether there are legitimate business reasons for the changes and retain supporting documentation, including comparisons with similar services. Internal review procedures should also be updated to address the newly specified conduct involving restrictions on consumer choice and quality degradation.

- **Fourth, multinational enterprises should review their pricing policies in light of their potential effects on the Korean market.**

  The MRFTA reaches conduct outside Korea that affects the Korean market (Article 3 of the MRFTA), so price differences for the same goods or services across countries may also draw KFTC scrutiny. Multinationals should keep objective evidence explaining how cost structures, market conditions, and trading terms differ across jurisdictions.

The KFTC aims to finalize the amendments in the first half of 2027, following the public comment period and review by the Ministry of Government Legislation. Companies with concerns about the clarity of the proposed provisions or their business impact should consider filing comments before the comment period closes on December 16, 2026, and should continue to track the final text and any related revisions to the Guidelines.

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