

MERGER NOTIFICATION AND PROCEDURES TEMPLATE

REPUBLIC OF KOREA

March 2006

IMPORTANT NOTE: This template is intended to provide initial background on the jurisdiction's merger notification and review procedures. Reading the template is not a substitute for consulting the referenced statutes and regulations.

1. Merger notification and review materials (please provide title(s), popular name(s), and citation(s)/web address)

A. Notification provisions	Article 12 of the Monopoly Regulation And Fair Trade Act (MRFTA) and Article 18 of Enforcement Decree Of the MRFTA
B. Notification forms or information requirements	They are available on the website of the Korea Fair Trade Commission (http://ftc.go.kr/data/english/2003_m_a6.doc).
C. Substantive merger review provisions	Article 7 of the MRFTA and Article 11-12 of Enforcement Decree of the MRFTA
D. Implementing regulations	Enforcement Decree of the Monopoly Regulation and Fair Trade Act
E. Interpretive guidelines and notices	Notification On M&A Reporting Guidelines and Notification On M&A Review Guidelines (http://ftc.go.kr/data/english/2003_m_a5.doc , http://ftc.go.kr/data/hwp/review(1999_2).doc)

2. Authority or authorities responsible for merger enforcement.

A. Name of authority. If there is more than one	The Korea Fair Trade Commission (KFTC)
--	--

authority, please describe allocation of responsibilities.	
B. Address, telephone and fax (including country code), e-mail, website address and languages available.	Chungang-dong #1, Gwachon-shi, Kyunggi-do, Republic of Korea Telephone : +82 2 504 4163 (Merger and Acquisition Team) Fax : +82 2 504 6460
C. Is agency staff available for pre-notification consultation? If yes, please provide contact points for questions on merger filing requirements and/or consultations.	Yes. Merger and Acquisition Team

3. Covered transactions

A. Definitions of potentially covered transactions (i.e., concentration or merger)	They are provided in Article 7 of the MRFTA: The acquisition or ownership of stocks of other companies, the concurrent holding of an officer's position in another company by an officer or employee, a merger with other companies, an acquisition by transfer of business, and participation in the establishment of a new company.
B. If change of control is a determining factor, how is control defined?	Change of control is not a determining factor in deciding whether a given transaction is subject to notification obligation.
C. Are partial (less than 100%) stock acquisitions/minority shareholdings covered? At what levels?	Yes. Acquisition of 15% or more stocks of a listed company or Acquisition of 20% or more stocks of an unlisted company.
D. Do the notification requirements cover joint ventures? If so, what types (e.g., production joint ventures)?	Yes. Any types of joint ventures.

10. Waiting periods / suspension obligations

<p>A. Describe any waiting periods/suspension obligations following notification, including whether closing is suspended or whether the implementation of the transaction is suspended or whether the parties are prevented from adopting specific measures (e.g., measures that make the transaction irreversible, or measures that change the market structure), during any initial review period and/or further review period.</p>	<p>No one who has made a pre-merger notification shall execute the contracts until 30 days after making such a report, and the period can be extended up to not more than 90 days from the date following the expiry date.</p>
<p>B. Can parties request a derogation from waiting periods/suspension obligations? If so, under what circumstances?</p>	<p>If a filing party requests to accelerate merger review process by showing special circumstances and KFTC finds no restriction of competition, KFTC can notify the requesting party of the result of the review even before the end of 30 days of waiting period. The party can execute the contract after the notification.</p>
<p>C. Are the applicable waiting periods/suspension obligations limited to aspects of the transaction that occur within the jurisdiction (e.g., acquisition or merger of local undertakings/business units)? If not, to what extent do they apply to the parties' ability to proceed with the transaction outside the jurisdiction? Describe any procedures available to permit consummation outside the jurisdiction prior to the expiration of the local waiting period and/or clearance (e.g. request for a derogation from the suspension</p>	<p>No. However, under the MRFTA, "voluntary pre-merger notification" is available to shorten the waiting period. Under the VPN, a merging party may request the KFTC a merger review even before entering into the merger agreement. Therefore, the KFTC may begin the review earlier than usual, which enables it to finish the review earlier than usual.</p>

