

# MONOPOLY REGULATION AND FAIR TRADE ACT

---

Wholly Amended by Act No. 4198, Jan. 13, 1990  
Amended by Act No. 4501, Nov. 25, 1992  
Act No. 4513, Dec. 8, 1992  
Act No. 4790, Dec. 22, 1994  
Act No. 4831, Dec. 23, 1994  
Act No. 5235, Dec. 30, 1996  
Act No. 5403, Aug. 30, 1997  
Act No. 5454, Dec. 13, 1997  
Act No. 5491, Dec. 31, 1997  
Act No. 5498, Jan. 8, 1998  
Act No. 5503, Jan. 13, 1998  
Act No. 5528, Feb. 24, 1998  
Act No. 5529, Feb. 28, 1998  
Act No. 5559, Sep. 16, 1998  
Act No. 5813, Feb. 5, 1999  
Act No. 5814, Feb. 5, 1999  
Act No. 5825, Feb. 8, 1999  
Act No. 6043, Dec. 28, 1999  
Act No. 6371, Jan. 16, 2001  
Act No. 6651, Jan. 26, 2002  
Act No. 6705, Aug. 26, 2002  
Act No. 7289, Dec. 31, 2004  
Act No. 7315, Dec. 31, 2004  
Act No. 7386, Jan. 27, 2005  
Act No. 7428, Mar. 31, 2005  
Act No. 7492, Mar. 31, 2005  
Act No. 7796, Dec. 29, 2005  
Act No. 8382, Apr. 13, 2007  
Act No. 8387, Apr. 27, 2007  
Act No. 8572, Aug. 3, 2007  
Act No. 8631, Aug. 3, 2007  
Act No. 8635, Aug. 3, 2007  
Act No. 8666, Oct. 17, 2007  
Act No. 8863, Feb. 29, 2008  
Act No. 9357, Jan. 30, 2009  
Act No. 9554, Mar. 25, 2009  
Act No. 10166, Mar. 22, 2010  
Act No. 10303, May 17, 2010

## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to promote fair and free competition, to encourage thereby creative enterprising activities, to protect consumers and to strive for balanced development of the national economy, by preventing any abuse of market-dominating positions by enterprisers and any excessive concentration of economic power, and by regulating undue collaborative acts and unfair trade practices.

## Article 2 (Definitions)

The terms used in this Act shall be defined as follows: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 8387, Apr. 27, 2007; Act No. 8631, Aug. 3, 2007>

1. The term "enterpriser" means a person who conducts manufacturing business, service business, or any other business. Any executive, employee, agent or any other person who acts in the interest of the enterpriser shall be deemed an enterpriser in application of the provisions pertaining to enterprisiers' organizations;
  - 1-The term "holding company" means a company which makes controlling any domestic
2. company's business through the ownership of stocks (including equities; hereinafter the same shall apply) as its main business and whose total assets are above the amount determined by Presidential Decree. In such cases, the standards for main business shall be determined by Presidential Decree;
  - 1-The term "subsidiary" means a domestic company the business of which is controlled
3. by the holding company under the standards prescribed by Presidential Decree;
  - 1-The term "second-tier company" means a domestic company of which management is
4. under the control of the subsidiary under the standards prescribed by Presidential Decree;
2. The term "enterprise group" means a group of companies the businesses of which is substantially controlled by the same person according to the following distinction pursuant to the standards prescribed by Presidential Decree:
  - (a) Where the same person is a company, a group composed of such person and one or more companies controlled by him/her;
  - (b) Where the same person is not a company, a group composed of two or more companies controlled by him/her;
3. The term "affiliated company" means that where two or more companies belong to the same enterprise group, each company is called as an affiliated company of the others;
4. The term "enterprisiers' organization" means an association or a federation which is organized by two or more enterprisiers for the purpose of increasing their common interests, regardless of its form or federation thereof;
5. The term "executive" means a director, representative director, managing partner with unlimited liability, auditor or person in a similar position, or commercial employer, such as a manager, etc., who is capable of executing general business of the main or branch offices;
6. The term "resale price maintenance" means an act by which an enterpriser compels, in trading the goods or services, a counterpart enterpriser or an enterpriser by next stage of transaction to sell them only at the price fixed in advance, or transacts under any agreement or binding conditions thereon for such purpose;
7. The term "market-dominating enterpriser" means any enterpriser who can determine, maintain, or change the prices, quantity or quality of commodities or services or other terms and conditions of business as a supplier or customer in a particular business area individually or jointly with other enterprisiers. In deciding whether an enterpriser is a market-dominating enterpriser, his/her market share, whether and to what extent any barriers to enter into the market exist, and the relative size of competitive enterprisiers shall be comprehensively taken into account;
8. The term "particular business area" means an area in which any competitive relation exists or may exist, by the subject, stage or geographical area of a trade;
  - 8-The term "practices practically suppressing competition" means practices which cause
2. or threaten to cause impacts on the determination of price, quantity, quality, or other terms or conditions of trading by intent of a certain enterpriser or an enterprisiers' organization, because of reduced competition in a particular business area;
9. The term "credit" means any loan and guarantee or acceptance of company obligation by domestic financial institutions;
10. The term "financial business or insurance business" means financial business and insurance business categorized according to the Korean Standard Industrial

Classification that is published by the Commissioner of the National Statistical Office pursuant to [Article 22 \(1\) of the Statistics Act](#).

#### **Article 2-2 (Application to Overseas Act)**

In cases where any act that performs even abroad affects the domestic market, this Act shall apply to such act.

*[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]*

## **CHAPTER II PROHIBITION OF ABUSE OF MARKET-DOMINATING POSITIONS**

#### **Article 3 (Remedy, etc. of Monopoly or Oligopoly in Market Structures)**

- (1) The Fair Trade Commission shall establish and implement action plans to promote competition in markets in which monopoly or oligopoly situations have continued for a long time in relation to supply or demand of goods or services.
- (2) The Fair Trade Commission may give opinions to the heads of the relevant administrative agencies as to the introduction of competition or other measures necessary to improve market structures, where it appears to be necessary for the Commission to carry out action plans under paragraph (1).
- (3) The Fair Trade Commission shall investigate the market structures and announce the results in order to establish and promote the action plans referred to in paragraph (1). *<Newly Inserted by Act No. 5813, Feb. 5, 1999>*
- (4) The Fair Trade Commission may request an enterpriser to submit data necessary for the research and announcement of the market structure referred to in paragraph (3). *<Newly Inserted by Act No. 5813, Feb. 5, 1999>*
- (5) The Fair Trade Commission may entrust the affairs referred to in paragraphs (3) and (4) to other agencies, as prescribed by Presidential Decree. *<Newly Inserted by Act No. 5813, Feb. 5, 1999>*

*[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]*

#### **Article 3-2 (Prohibition of Abuse of Market-Dominating Position)**

- (1) No market-dominating enterpriser shall commit any act falling under any of the following subparagraphs (hereinafter referred to as "abusive acts"): *<Amended by Act No. 5813, Feb. 5, 1999>*
  1. Determining, maintaining or changing unreasonably the price of commodities or services (hereinafter referred to as "price");
  2. Unreasonably controlling the sale of commodities or provision of services;
  3. Unreasonably interfering with the business activities of other enterprisers;
  4. Unreasonably impeding the participation of new competitors;
  5. Unfairly excluding competitive enterprisers, or doing considerable harm to the interests of consumers.
- (2) Categories or standards for abusive acts may be determined by Presidential Decree. *<Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999>*

#### **Article 4 (Presumption of Market-Dominating Enterpriser)**

An enterpriser (excluding the enterpriser whose annual amount of sales or purchase in a particular business area is less than 4 billion won) whose market share in a particular business area falls under any of the following subparagraphs shall be presumed a market-dominating enterpriser referred to in subparagraph 7 of [Article 2](#): *<Amended by Act No. 8631, Aug. 3, 2007>*

1. Market share of one enterpriser is 50/100 or more;
2. The total market share of not less than three enterprisers is 75/100 or more: *Provided,* That those whose market share is less than 10/100 shall be excluded herefrom.

*[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]*

#### **Article 5 (Corrective Measures)**

Where there exists any act of violating the provisions of [Article 3-2](#), the Fair Trade

Commission may order the market-dominating enterpriser concerned to reduce the price, discontinue the act of violation, publish the fact that the latter is ordered to make the correction thereof, and to take other measures necessary for correction. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 7315, Dec. 31, 2004>

#### **Article 6 (Penalty Surcharges)**

In cases of abusive acts by a market-dominating enterpriser, the Fair Trade Commission may impose upon such enterpriser a surcharge not exceeding the amount equivalent to 3/100 of the turnover determined by Presidential Decree (referring to profits of business particularly for an enterpriser designated by Presidential Decree; hereinafter the same shall apply):

*Provided*, That in cases prescribed by Presidential Decree, where no turnover exists, or where it is difficult to compute the turnover (hereinafter referred to as "in the absence of turnover, etc"), a penalty surcharge may be imposed by up to one billion won.

[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

### **CHAPTER III RESTRICTION ON COMBINATION OF ENTERPRISES AND REPRESSION OF ECONOMIC POWER CONCENTRATION**

#### **Article 7 (Restriction on Combination of Enterprises)**

(1) No one shall, directly or through a person determined by Presidential Decree as having special interest (hereinafter referred to as "person with special interest"), practically suppress competition in a particular business area by conducting practices falling under any of the following subparagraphs (hereinafter referred to as "combination of enterprises"): *Provided*, That this shall not apply where a person, other than a company whose size of total assets or turnover (referring to the sum of total assets or turnover of affiliated companies) meets the size determined by Presidential Decree (hereinafter referred to as "large company"), performs an act falling under subparagraph 2:

<Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8631, Aug. 3, 2007>

1. The acquisition or ownership of stocks of other companies;
2. The concurrent holding of an executive's position in another company (hereinafter referred to as "concurrent holding of an executive's position") by an executive or employee (referring to a person who continues to be engaged in the affairs of the company, but is not an executive; hereinafter the same shall apply);
3. A merger with other companies;
4. An acquisition by transfer, lease or acceptance by mandate of the whole or main part of a business of another company, or the acquisition by transfer of the whole or main part of fixed assets used for the business of another company (hereinafter referred to as "acquisition by transfer of business");
5. Participation in the establishment of a new company: *Provided*, That this shall not apply to any of the following cases:
  - (a) Where a person, other than persons with special interests (excluding those determined by Presidential Decree) does not participate in the establishment of a new company;
  - (b) Where a person participates in the establishment of a company by division under [Article 530-2 \(1\) of the Commercial Act](#).

(2) The provisions of paragraph (1) shall not apply where the Fair Trade Commission deems that a combination of enterprises falls under any of the following subparagraphs. In such cases, the parties concerned shall assume the burden of proof as to whether it meets the requirements: <Amended by Act No. 5813, Feb. 5, 1999>

1. Where the effect of efficiency promotion attainable through the combination of enterprises is more than the negative effect produced by restricted competition;
2. Where such combination is made with an inviable company, falling under the requirements determined by Presidential Decree, such as the company whose total capital in a balance sheet is less than its paid-in capital for a reasonable period.

- (3) Deleted. <by Act No. 8631, Aug. 3, 2007>
- (4) In cases of a combination of enterprises falling under any of the following subparagraphs, it shall be presumed that competition is practically suppressed in a particular business area: <Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8631, Aug. 3, 2007>
1. In cases where the aggregate of the market share of a company (referring to all the companies participating in the establishment of a company in cases of paragraph (1) 5; hereafter the same shall apply) taking part in the combination of enterprises (referring to the aggregate of market shares of the affiliated companies; hereafter the same shall apply in this Article) meets the qualifications of the following items:
    - (a) In cases where the aggregate of the market share of the company concerned satisfies the presumptive requirements for a market-dominating enterprise;
    - (b) In cases where the aggregate of the market share of the company concerned is the largest in the business area concerned;
    - (c) In cases where the aggregate of the market share of the company concerned exceeds the market share of a company with the second largest market share (referring to a company with the largest market share besides the company concerned) by not less than 25/100 of the aggregate of the market share;
  2. In cases where a large company, directly or through a person with a special interest, combines enterprises according to the following requirements:
    - (a) In cases of the combination of enterprises in a particular business area where small or medium enterprises under the [Framework Act on Small and Medium Enterprises](#) occupy not less than two-thirds of the whole market share;
    - (b) In cases of the combination of enterprises through which the combined company will have 5/100 or more of the market share.
  - (5) The Fair Trade Commission may determine and announce the standards for the combination of enterprises which practically suppresses competition in a particular business area under paragraph (1), and for the combination of enterprises to which paragraph (1) does not apply pursuant to paragraph (2). <Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8631, Aug. 3, 2007>

#### **Article 7-2 (Standards for Acquisition or Ownership of Stocks)**

The acquisition or ownership of stocks under this Act shall be determined by the genuine ownership of stocks, regardless of the names listed on the register.  
[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 8 (Reporting on Establishment of and Conversion into Holding Companies)**

Where a person has established a holding company or has converted a company into a holding company, he/she shall make a report to the Fair Trade Commission, as prescribed by Presidential Decree. <Amended by Act No. 6371, Jan. 16, 2001>  
[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

#### **Article 8-2 (Restrictions, etc. on Act by Holding Companies, etc.)**

- (1) The terms used in this Article shall be defined as follows: <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>
  1. The term "joint stock corporation" means a corporation in which not less than two investors (persons, other than those prescribed by Presidential Decree, from among investors with a special relationship as specially related persons, shall be deemed one person) who hold considerable amounts of equity so that they may exercise influence on corporate management, substantially restrict the transfer of equity stocks by means of contracts or by other ways corresponding thereto, thereby making it difficult to make any changes in equities among investors;
  2. The term "venture holding company" means a holding company that has venture enterprises (hereinafter referred to as "venture enterprise") under [Article 2 \(1\) of the Act on Special Measures for the Promotion of Venture Businesses](#) as its subsidiaries and is in conformity with the standards prescribed by Presidential Decree.
- (2) No holding company shall perform any act falling under any of the following

subparagraphs: <Amended by Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act Nos. 8631 & 8635, Aug. 3, 2007>

1. Holding liabilities exceeding twice the total capital amount (referring to the amount obtained by deducting liabilities from the total amount of assets on the balance sheet; hereinafter the same shall apply): *Provided*, That when any holding company holds the amount of liabilities in excess of twice the total amount of capital at the time when the company is converted into a holding company or incorporated as a holding company, it may hold the amount of liabilities in excess of twice the total amount of its capital for two years from the date on which it is converted into a holding company or incorporated as a holding company;
2. Holding less than 40/100 of the total number of stocks issued by the subsidiary [in cases where the subsidiary is a stock-listed corporation under the [Financial Investment Services and Capital Markets Act](#) (hereinafter referred to as "listed corporation"), a corporation listed on an overseas stock exchange (hereinafter referred to as "overseas listed corporation") publicly announced by the Fair Trade Commission in which the listing requirements, such as the distribution requirements of stock ownership, correspond to those requirements in the domestic securities market, a joint stock corporation, or the subsidiary of a venture holding company, the percentage shall be 20/100; hereafter referred to as "subsidiary stock holding standard" in this Article]: *Provided*, That the same shall not apply to any subsidiary that falls short of the subsidiary stock holding standard due to any ground falling under any of the following items:
  - (a) Where the holding company holds stocks that fall short of the standards for subsidiary stock holding at the time when the holding company is converted or incorporated and is within two years from the date on which it is converted or incorporated;
  - (b) Where the subsidiary that was a listed corporation, an overseas listed corporation or a joint stock corporation falls short of the subsidiary stock holding standard on the grounds that it does not fall under any of them and is within one year from the date on which it does not fall under the standard;
  - (c) Where the company that was a venture holding company falls short of the subsidiary stock holding standard on the grounds that it does not fall under such venture holding company and is within one year from the date on which it does not fall under such venture holding company;
  - (d) Where the subsidiary falls short of the subsidiary stock holding standard and is within one year from the date on which such subsidiary falls short of the subsidiary stock holding standard on the grounds that the subsidiary preferentially allots stocks to the employee stock ownership association pursuant to [Article 191-7 of the Securities and Exchange Act](#) while offering and selling stocks or a claim is filed for converting convertible bonds or warrant bonds issued by the subsidiary pursuant to [Article 513 or 516-2 of the Commercial Act](#) or the preemptive right is exercised;
  - (e) Where the company that is not a subsidiary falls under a subsidiary and falls short of the subsidiary stock holding standard and is within one year from the date on which the relevant company falls under such subsidiary;
  - (f) Where the subsidiary falls short of the subsidiary stock holding standard in the process of making the subsidiary a non-subsidiary and is within one year from the date on which such subsidiary falls short of the subsidiary stock holding standard (limited to cases where the subsidiary does not fall under the category of the subsidiary within one year from the date on which it falls short of the subsidiary stock holding standard);
  - (g) Where the subsidiary falls short of the subsidiary stock holding standard due to its merger with another company, and is within one year from the date on which such subsidiary falls short of the subsidiary stock holding standard.
3. Holding stocks of a domestic company (excluding a company that operates the private investment project by a method prescribed by subparagraphs 1 through 4 of [Article 4 of the Act on Private Participation in Infrastructure](#); hereafter the same shall apply in this subparagraph) that is not an affiliated company, in excess of 5/100 of the total number of

- stocks issued by the relevant domestic company (this shall not apply to any holding company that holds less than 15/100 of the total amount of the stock value of the domestic company that is not its affiliated company) or holding stocks of any domestic affiliate, other than its subsidiary: *Provided*, That the same shall apply to cases of any domestic company that is not an affiliated company or any domestic affiliate company that each holds stocks due to a ground falling under any of the following items:
- (a) Where the company falls under the act provided for in the main sentence of this subparagraph at the time when it is converted into a holding company or is incorporated as a holding company and is within two years from the date on which it is converted or incorporated as a holding company;
  - (b) Where the company falls under the act provided for in the main sentence of this subparagraph in the process of getting any company that is not its affiliate to fall under its subsidiary and is within one year from the date on which it falls under such act (limited to cases where it falls under the subsidiary within the same period);
  - (c) Where the company holds the stocks of the domestic affiliate, none of which is owned by the company, in the process of getting the domestic affiliate to fall under its subsidiary and is within one year from the date on which it holds the stocks of the domestic affiliate (limited to cases where the domestic affiliate is made to fall under its subsidiary);
  - (d) Where the company is within one year from the date on which the relevant subsidiary does not fall under its subsidiary in the process of getting the subsidiary not to fall under the subsidiary;
4. Holding stocks of a domestic company, other than those of a company conducting financial business or insurance business (including a company meeting the standards determined by Presidential Decree, such as companies closely connected with financial business or insurance business) for a holding company which holds stocks of its subsidiary conducting financial business or insurance business (hereinafter referred to as "financial holding company"): *Provided*, That when a holding company holds stocks of any domestic company, other than any company that runs financial business or insurance business, at the time when such holding company is converted into a financial holding company or is incorporated as a financial holding company, such holding company may hold the stocks of such domestic company for two years from the date on which it is converted into a financial holding company or is incorporated as a financial holding company;
  5. Holding stocks of a domestic company conducting financial business or insurance business for a holding company which is not a financial holding company (hereinafter referred to as "general holding company"): *Provided*, That when a holding company holds stocks of any domestic company that runs financial business or insurance business at the time when the holding company is converted into a general holding company or is incorporated as a general holding company, such holding company may hold the stocks of such domestic company for two years from the date on which it is converted into a general holding company or is incorporated as a general holding company.
- (3) The subsidiary of every general holding company shall be prohibited from conducting acts falling under any of the following subparagraphs: *<Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007>*
    1. Holding less than 40/100 of the total number of outstanding stocks of a second-tier company (20/100 in cases where the second-tier company is a listed corporation, an overseas listed corporation or a joint stock corporation; hereafter referred to as "standard for holding stocks of a second-tier company" in this Article): *Provided*, That the same shall not apply to any second-tier company that falls short of the standard for holding stocks of a second-tier company due to a ground falling under any of the following items:
      - (a) Where it has been less than two years, since the subsidiary holds stocks of the second-tier company that fall short of the standard for holding stocks of second-tier company at the time of the incorporation of the subsidiary;

- (b) Where it has been less than one year, since the second-tier company that was a listed corporation, an overseas listed corporation or a joint stock corporation falls short of the standards for holding stocks of a second-tier company on the grounds of its failure to fall under a listed corporation, an overseas listed corporation or a joint stock corporation;
  - (c) Where the second-tier company preferentially allots stocks to the employee stock ownership association while offering and selling its stocks pursuant to [Article 191-7 of the Securities and Exchange Act](#) or the second-tier company falls short of the standard for holding stocks of a second-tier company after a claim is filed for converting the convertible bonds or the warrant bonds issued pursuant to [Article 513](#) or [516-2 of the Commercial Act](#) or the preemptive right is exercised and is within one year from the date on which the second-tier company falls short of the standards for holding stocks of a second-tier company;
  - (d) Where it has been less than one year, since any company that is not a second-tier company falls under the second-tier company, but falls short of the standard for holding stocks of a second-tier company;
  - (e) Where it has been less than one year, since the second-tier company falls short of the standards for holding stocks of a second-tier company in the process of getting the second-tier company not to fall under the second-tier company (limited to cases where it does not fall under the second-tier company during the same period);
  - (f) Where it has been less than one year, since a second-tier company falls short of the standards for holding stocks of a second-tier company due to its merger with another company;
2. Holding stocks of any domestic affiliate that is not a second-tier company: *Provided*, That the same shall not apply to cases where any domestic affiliate holds the stocks due to a ground falling under any of the following items:
- (a) Where less than two years have passed, since the domestic affiliate holds stocks at the time when it is converted into a subsidiary;
  - (b) Where less than a year has passed, since a company that is not an affiliate falls under a second-tier company in the process of getting the company to fall under a second-tier company (limited to cases where the company falls under the second-tier company within the same period);
  - (c) Where less than a year has passed, since stocks of any domestic affiliate, none of which is owned, are obtained in the process of getting the relevant domestic affiliate to fall under the second-tier company (limited to cases where it falls under the second-tier company within the same period);
  - (d) Where less than a year has passed, since any second-tier company does not fall under the second-tier company in the process of getting the former not to fall under the latter (limited to cases where the second-tier company does not fall under any affiliate within the same period);
  - (e) Where less than a year has passed, since a second-tier company became to hold the stocks another subsidiary due to its merger with such subsidiary;
  - (f) Where less than a year has passed, since a subsidiary which holds its own stocks has come to hold stocks of another domestic affiliate company due to division of company;
3. Having a company in financial or insurance business under the control as a second-tier company: *Provided*, That if it controls a company conducting financial or insurance business as a second-tier company at the time of becoming a subsidiary of a general holding company, it may control the second-tier company for two years from the date of becoming a subsidiary.
- (4) Every second-tier company of a general holding company shall be prohibited from holding stocks of any domestic affiliate: *Provided*, That the same shall not apply to cases where the domestic affiliate holds such stocks due to a ground falling under any of the following subparagraphs: <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>
1. Where less than two years have passed, since the domestic affiliate holds stocks at the



- time when it becomes a second-tier company;
2. The domestic company that is not an affiliate holding stocks falls under an affiliate and is within one year from the date on which the domestic company falls under the affiliate;
  3. Where less than a year has passed, since a second-tier company that holds its own stocks came to hold stocks of another domestic affiliate company due to division of company;
  4. Where a second-tier company holds the total outstanding stocks of a domestic affiliate company (excluding a company operating financial business or insurance business).
- (5) A company (hereinafter referred to as "third-tier company") whose stocks are held by a second-tier company in accordance with paragraph (4) 4 shall not hold stocks of a domestic affiliate company: *Provided*, That this shall not apply where it falls under any of the following subparagraphs: <Newly Inserted by Act No. 8631, Aug. 3, 2007>
1. Where less than two years have passed, since a domestic affiliate company falls under a third-tier company for the domestic affiliate company whose stocks were held at the time of becoming a third-tier company;
  2. Where less than a year has passed, since a domestic company which is not an affiliate company whose stocks are being held falls under an affiliate company.
- (6) In applying the proviso to paragraph (2) 1, paragraph (2) 2 (a) and 3 (a), the provisos to paragraph (2) 4 and 5, and paragraphs (3) 1 (a) and 2 (a), proviso of paragraph (3) 3, paragraphs (4) 1 and (5) 1, if it is difficult to decrease the amount of liabilities or to acquire or dispose of stocks due to changes in general economic conditions, such as stock price fluctuations, a contract prohibiting the disposal of stocks, a substantial loss from business operations, or other causes, each such grace period as referred to in the said provisions may be extended up to two more years, subject to approval of the Fair Trade Commission. <Newly Inserted by Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007>
- (7) A holding company shall submit to the Fair Trade Commission a report on the business details of the holding company, its subsidiaries, its second-tier companies and its third-tier company (hereinafter referred to as "holding company, etc"), such as status of stockholding and financial standing, as prescribed by Presidential Decree. <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>
- [This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

### **Article 8-3 (Restrictions on Establishment of Holding Company by Enterprise Group subject to Limitations on Debt Guarantees)**

Where the same person who controls a company belonging to an enterprise group subject to the limitations on debt guarantees designated under [Article 14](#) (1) or the person with special interests in the same person intends to establish a holding company or convert the company into a holding company, he/she shall have the existing debt guarantees under [Article 10-2](#), which fall hereunder, annulled: <Amended by Act No. 6651, Jan. 26, 2002>

1. Debt guarantee between a holding company and its subsidiary;
2. Debt guarantee between a holding company and other domestic affiliated companies (excluding a subsidiary controlled by the holding company in question);
3. Debt guarantee between subsidiaries;
4. Debt guarantee between a subsidiary and other domestic affiliated companies (excluding a holding company controlling the subsidiary in question and any other subsidiary controlled by the holding company in question).

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

### **Article 9 (Prohibition, etc. of Mutual Contribution)**

- (1) Any company belonging to an enterprise group whose total assets, etc. fall under the criteria prescribed by Presidential Decree, and thereby designated under [Article 14](#) (1) (hereinafter referred to as "enterprise group subject to the limitations on mutual investment") shall not acquire or own stocks of an affiliated company which acquires or owns its stocks: *Provided*, That this shall not apply where it falls under any of the following subparagraphs: <Amended by Act No. 6651, Jan. 26, 2002>

1. A merger of companies, or the acquisition by transfer of a whole business;
2. Exercise of security right, or the receipt of payment in substitutes.
- (2) Any company which makes an investment under the proviso to paragraph (1) shall dispose of stocks within six months from the day on which it acquires or holds them: *Provided*, That this shall not apply where an affiliated company acquiring or holding its own stocks disposes of them.
- (3) Any company which belongs to an enterprise group subject to the limitations on mutual investment and which is also an investment company for the establishment of small and medium enterprises under the [Support for Small and Medium Enterprise Establishment Act](#), shall not acquire or hold stocks of a domestic affiliated company. <Amended by Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007>

**Article 10 Deleted.** <by Act No. 9554, Mar. 25, 2009>

**Article 10-2 (Prohibition of Debt Guarantees for Affiliated Company)**

- (1) Any company (excluding a company conducting financial business or insurance business; hereinafter the same shall apply) belonging to an enterprise group which falls under the criteria set forth in Presidential Decree, such as the total amount of assets in excess of a specific scale, and thereby designated under [Article 14](#) (1) (hereinafter referred to as "enterprise group subject to the limitations on debt guarantees"), shall not give debt guarantees to its domestic affiliated companies: *Provided*, That the same shall not apply to a debt guarantee which falls under any of the following subparagraphs: <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5825, Feb. 8, 1999; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007>
  1. A guarantee made in connection with any obligation of a company, which is taken over according to the criteria for rationalization under the [Restriction of Special Taxation Act](#);
  2. Deleted; <by Act No. 5335, Dec. 30, 1996>
  3. A guarantee on debts which is deemed necessary to enhance the international competitiveness of enterprises, or which is set forth in Presidential Decree.
- (2) For the purpose of paragraph (1), "debt guarantee" means any guarantee to be made to a domestic affiliated company by a company belonging to an enterprise group subject to the limitations on debt guarantees in connection with the credit of a domestic financial institution falling under any of the following subparagraphs: <Amended by Act No. 5403, Aug. 30, 1997; Act No. 5454, Dec. 13, 1997; Act No. 6651, Jan. 26, 2002; Act Nos. 8631 & 8635, Aug. 3, 2007; Act No. 10303, May 17, 2010>
  1. Banks as prescribed by the [Banking Act](#), the Korea Development Bank, the Export-Import Bank of Korea, the Long-Term Credit Bank, and the Industrial Bank of Korea;
  2. Deleted; <by Act No. 5503, Jan. 13, 1998>
  3. Insurance companies as prescribed by the [Insurance Business Act](#);
  4. Investment traders, investment brokers, and merchant banks as prescribed by the [Financial Investment Services and Capital Markets Act](#);
  5. Deleted; <by Act No. 8635, Aug. 3, 2007>
  6. Other financial institutions prescribed by Presidential Decree.
- (3) and (4) Deleted. <by Act No. 5528, Feb. 24, 1998>  
 [This Article Newly Inserted by Act No. 4513, Dec. 8, 1992]

**Article 10-3 Deleted.** <by Act No. 6371, Jan. 16, 2001>

**Article 11 (Limitation of Voting Rights of Financial Companies or Insurance Companies)**

Neither financial nor insurance company which belongs to an enterprise group subject to the limitations on mutual investment shall exercise its voting rights in stocks of domestic affiliated companies, under its acquisition or ownership: *Provided*, That the same shall not apply to any of the following cases: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007>

1. Where acquiring or owning the stocks of company in order to carry on financial business or insurance business;

2. Where acquiring or owning the stocks of company by obtaining approval, etc. pursuant to the [Insurance Business Act](#), etc. in order to ensure efficient operation and management of insurance assets;
3. Where the general meeting of stockholders of a relevant domestic affiliated company (limited to the listed corporation) passes a resolution for matters falling under any of the following items. In such cases, the number of voting stocks from among stocks of the said affiliated company shall not exceed 15/100 of the gross number of stocks issued by the said affiliated company, including the number of stocks to be exercised by the persons, other than those stipulated by Presidential Decree, from among the specially-related persons with the said affiliated company:
  - (a) Appointment or dismissal of executives;
  - (b) Amendment of the articles of incorporation;
  - (c) Merger of the said affiliated company with another company, or transfer of the whole or part of business to another company.

#### **Article 11-2 (Resolution by Board of Directors and Publication on Large-Scale Internal Trading)**

- (1) When any company belonging to an enterprise group which falls under the criteria set forth in Presidential Decree, such as the total amount of assets in excess of a specific scale (hereinafter referred to as "company subject to the publication of internal trading"), intends to carry out a trading act falling under any of the following subparagraphs (hereinafter referred to as "large-scale internal trading") with specially-related persons or for such specially-related persons beyond the business scale prescribed by Presidential Decree, it shall publish such intention in advance after undergoing a resolution by the board of directors. The same shall apply where such company intends to change major contents as prescribed in paragraph (2): *<Amended by Act No. 6651, Jan. 26, 2002; Act No. 8382, Apr. 13, 2007>*
  1. Offering or trading funds, such as suspense payments and loans, etc.;
  2. Offering or trading securities, such as stocks and company bonds, etc.;
  3. Offering or trading assets, such as real estate or intangible property rights, etc.;
  4. Offering or trading goods or services to or with the affiliated companies prescribed by Presidential Decree in consideration of the stockholder structure, etc. or for such affiliated companies.
- (2) Any company subject to the publication of internal trading, in making the publication pursuant to paragraph (1), shall include, in such publication, significant matters prescribed by Presidential Decree, such as the objective of trading, the other party to trading, and the scale and terms of trading.
- (3) The Fair Trade Commission may entrust the business related to the publication as prescribed in paragraph (1) to institutions in charge of receiving reports under [Article 161 of the Financial Investment Services and Capital Markets Act](#). In such cases, the Fair Trade Commission shall determine methods, procedures and other necessary matters with respect to the publication after consultations with such entrusted institutions. *<Amended by Act Nos. 8631 & 8635, Aug. 3, 2007>*
- (4) Any company subject to the publication of internal trading that runs financial business or insurance business may, if it intends to carry out a trading act that is a fixed trading according to its standard contractual terms and conditions and is consistent with standards prescribed by Presidential Decree, perform such trading act, notwithstanding the provisions of paragraph (1), without undergoing a resolution by the board of directors: *Provided*, That such company shall publish the details of such trading.
- (5) Where a listed company undergoes the resolution by the committee [limited to cases where three or more outside directors pursuant to [Article 2 \(19\) of the Securities and Exchange Act](#) are included, and the number of outside directors is 2/3 or more of the total number of members of the committee] established pursuant to [Article 393-2 of the Commercial Act](#) in cases of paragraph (1), it shall be deemed that it undergoes the resolution by the board of directors. *<Newly Inserted by Act No. 8631, Aug. 3, 2007>*  
*[This Article Newly Inserted by Act No. 6043, Dec. 28, 1999]*

### **Article 11-3 (Publication of Important Matters by Unlisted Companies, etc.)**

- (1) A company (excluding any company that runs financial business or insurance business) that belongs to the enterprise group that falls under the standards prescribed by Presidential Decree, including the total amount of assets of not less than a certain scale, with the exclusion of any listed corporation, shall publish matters falling under any of the following subparagraphs: *Provided*, That matters published pursuant to [Article 11-2](#) shall be excluded herefrom: <Amended by Act No. 8382, Apr. 13, 2007; Act Nos. 8631 & 8635, Aug. 3, 2007>
1. Important matters concerning corporate ownership and governance structure, including the current state of stocks held by the largest stockholders and major stockholders (referring to major stockholders provided for in [Article 9 \(1\) 2 of the Financial Investment Services and Capital Markets Act](#)), any change thereof and changes in composition of the executive board, etc. of the company, which are prescribed by Presidential Decree;
  2. Matters, including acquisition of assets or stocks, donations, the provision of security, the acceptance and exception of liabilities, etc. that result in major changes to corporate financial structure, which are prescribed by Presidential Decree;
  3. Important matters concerning corporate management, including the transfer and takeover of business, merger and division, the exchange and transfer of stocks, etc., that are related to the management of the company, which are prescribed by Presidential Decree.
- (2) The provisions of [Article 11-2](#) (2) and (3) shall apply *mutatis mutandis* to the publication referred to in paragraph (1).

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

### **Article 11-4 (Publication on Current Status, etc. of Enterprise Group)**

- (1) A company which belongs to an enterprise group subject to the limitations on mutual investment and the total amount of assets, etc. of which meets the criteria prescribed by Presidential Decree, shall publish information on the general conditions, current status of holding of stocks, status of transactions with persons with special relationships regarding the enterprise group, etc., which is prescribed by Presidential Decree.
- (2) The provisions of [Article 11-2](#) (3) shall apply *mutatis mutandis* to the publication referred to in paragraph (1).
- (3) Necessary matters, other than those set forth in paragraph (2), regarding the time, methods and procedures for publication under paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 9554, Mar. 25, 2009]

### **Article 12 (Reporting of Combination of Enterprises)**

- (1) In cases where any company (in cases where a corporate combination that falls under subparagraph 3 is performed, such corporate combination shall be limited to a large-scale company; hereafter referred to as "company liable to report corporate combination" in this Article) whose total amount of assets or scale of the sales amount falls under the standards set by Presidential Decree or the specially related person conducts corporate combination falling under any of subparagraphs 1 through 4 with another company (hereafter referred to as "counterpart company" in this Article) whose total amount of assets or scale of the sales amount falls under the standards set by Presidential Decree, or a company liable to report corporate combination or the specially related person thereof conducts corporate combination referred to in subparagraph 5 in association with the counterpart company or the specially related person thereof, it or he/she shall report to the Fair Trade Commission, as prescribed by Presidential Decree. The same shall apply where a company that falls under the scale of the counterpart company, other than the company liable to report corporate combination, or the specially related person thereof conducts corporate combination falling under any of subparagraphs 1 through 4 with a company liable to report corporate combination, or a company that falls under the scale of the counterpart company, other than the company liable to report corporate combination, or the specially related person thereof conducts corporate combination in

subparagraph 5 in association with a company liable to report corporate combination or the specially related person thereof: <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007>

1. Where not less than 20/100 (in cases of any listed corporation, 15/100) of the total number of stocks issued (excluding stocks without voting rights provided for by [Article 370 of the Commercial Act](#); hereinafter the same shall apply) by another company is held;
  2. Where any person who holds stocks issued by another company not less than the ratio under subparagraph 1 becomes the largest investor by additionally acquiring stocks of the relevant company;
  3. Where any executive concurrently holds office (excluding cases where he/she concurrently holds office of any affiliate);
  4. Where an act falling under [Article 7](#) (1) 3 or 4 is performed;
  5. Where it participates in the establishment of a new company and becomes the largest investor thereof.
- (2) The total amount of assets or the scale of the sales amount of the company liable to report corporate combination or of the counterpart company referred to in paragraph (1) means the scale of the aggregate of the total amount of assets or the sales amount of the company that continues to maintain the status of an affiliated company from the date on which the corporate combination is performed after the date on which the corporate combination is performed: *Provided*, That in cases of business acquisition or transfer under [Article 7](#) (1) 4, the total amount of assets or the scale of sales amount of the company that transfers its business (including the business rent, the management delegation and the transfer of operating assets) means the scale that does not add up the total amount of assets or sales amount of its affiliates. <Newly Inserted by Act No. 7315, Dec. 31, 2004>
- (3) Notwithstanding paragraph (1), it shall be excluded from one liable to report, where it falls under any of the following subparagraphs: <Newly Inserted by Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 6705, Aug. 26, 2002; Act No. 7315, Dec. 31, 2004; Act Nos. 8631 & 8635, Aug. 3, 2007>
1. Where a small and medium enterprise start-up investment company or a small and medium enterprise start-up investment association under subparagraph 4 or 5 of [Article 2 of the Support for Small and Medium Enterprise Establishment Act](#) holds stocks of the founder under subparagraph 2 of the same Article (hereinafter referred to as "founder") or venture business more than the rate pursuant to paragraph (1) 1, or becomes the largest investor by participating in the establishment of the founder or venture business in association with another company;
  2. Where a new technology venture capitalist or a new technology venture business investment association under [Article 41 \(1\) or \(3\) of the Specialized Credit Financial Business Act](#) holds stocks of a new technology enterprise (hereinafter referred to as "new technology enterprise") pursuant to subparagraph 1 of [Article 2 of the Korea Technology Credit Guarantee Fund Act](#) more than the rate pursuant to paragraph (1) 1, or becomes the largest investor by participating in the establishment of the founder or venture business in association with another company;
  3. Where a company liable to report corporate combination holds stocks of a company falling under any of the following items more than the rate pursuant to paragraph (1) 1, or becomes the largest investor by participating in the establishment of a company falling under any of the following items:
    - (a) Investment company pursuant to the [Financial Investment Services and Capital Markets Act](#);
    - (b) Company designated as a project operator for private investment of social infrastructure pursuant to the [Act on Private Participation in Infrastructure](#);
    - (c) Investment company (limited to a company falling under [Article 51-2 \(1\) 6 of the Corporate Tax Act](#)) established for the purpose of investment in a company pursuant to item (b);

- (d) Real estate investment company pursuant to the [Real Estate Investment Company Act](#).
- (4) The provisions of paragraph (1) shall not apply to cases where the head of the central administrative agency concerned has engaged in prior consultation with the Fair Trade Commission with regard to the relevant combination of enterprises under other relevant Acts.
- (5) In calculating the rate of holding or acquisition of stocks or deciding who is to be the largest investor, pursuant to paragraph (1) 1, 2 or 5, stocks owned by a person with a special relationship in the company concerned shall be added up. <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>
- (6) Reports on the combination of enterprises under paragraph (1) shall be made within 30 days after the date of such combination: *Provided*, That in cases where not less than one company are large-scale companies from among companies involved in a corporate combination referred to in paragraph (1) 1, 2, 4 or 5 (excluding cases prescribed by Presidential Decree), a report shall be made on such corporate combination within a period from the date set by Presidential Decree, such as the date on which the merger contract is concluded, to a date prior to the date of the corporate combination. <Amended by Act No. 5813, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 9554, Mar. 25, 2009>
- (7) Any person liable to report under the proviso to paragraph (6) shall be prohibited from performing any act of holding stocks, having a merger registered and fulfilling any business acquisition by transfer contract or subscription of stocks by the time when 30 days elapse after making a report thereon except as otherwise prescribed by Presidential Decree: *Provided*, That when it is deemed necessary by the Fair Trade Commission, the period may be shortened or extended within 90 days that are reckoned from the date following the date on which the period expires. <Amended by Act No. 7315, Dec. 31, 2004>
- (8) Where a person intends to conduct corporate combinations under [Article 7](#) (1), he/she may request the Fair Trade Commission to determine whether such combination may be categorized as one which practically suppresses competition even before the period of report under paragraph (6). <Amended by Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004>
- (9) Upon the request for determination under paragraph (8), the Fair Trade Commission shall notify the requester of the results thereof within 30 days: *Provided*, That the Fair Trade Commission may, if deemed necessary, extend such period by up to 90 days reckoned from the following day of the expiry date of such period. <Amended by Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004>
- (10) When two or more companies liable to file a report under paragraph (1) exist, these companies shall file the report jointly: *Provided*, That this shall not apply to cases where the Fair Trade Commission has designated one of the companies belonging to an enterprise group comprising of the obligator to report as the agent responsible for filing the report (hereafter referred to as "agent" in this Article), as prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

#### **Article 12-2 (Special Cases concerning Procedures for Reporting Combination of Enterprises)**

- (1) Any person who applies for approval, recommendation of permission for change, etc. (hereafter referred to as "approval, etc." in this Article) of establishment or merger, or change in the largest investor, etc. of a corporation falling under any of the following subparagraphs (hereafter referred to as "establishment, etc. of corporation" in this Article) may submit papers for report of combination of enterprises when applying for approval, etc. to the agency in charge of approval, etc. (including the Korea Communications Commission; hereafter the same shall apply in this Article) where the establishment, etc. of the corporation falls under the subject matter of report pursuant to [Article 12](#) (1): <Amended by Act No. 9554, Mar. 25, 2009>

1. Deleted; <by Act No. 10166, Mar. 22, 2010>
  2. Merger of a corporation (limited to a corporation which is a CATV broadcasting business operator pursuant to subparagraph 3 (b) of [Article 2 of the Broadcasting Act](#); hereafter referred to as "CATV broadcasting business operator" in this Article) pursuant to [Article 15 \(1\) 1 of the Broadcasting Act](#);
  3. Where it intends to be the largest investor in a CATV broadcasting business operator pursuant to [Article 15-2 \(1\) of the Broadcasting Act](#) or to exercise a dominant influence on the management right of a CATV broadcasting business operator.
  - (2) When an applicant for approval, etc. submits papers for report on combination of enterprises to the agency in charge pursuant to paragraph (1), the date when the papers were accepted by the agency in charge shall be deemed the date when report pursuant to [Article 12](#) (1) was made.
  - (3) When the agency in charge has received papers on the report of combination of enterprises pursuant to paragraph (1), it shall promptly deliver the papers on the report of combination of enterprises to the Fair Trade Commission.
  - (4) Those liable to report corporate combinations pursuant to the proviso to [Article 12](#) (6) may submit papers on the approval, etc. of establishment, etc. of corporation altogether when they make a report on combination of enterprises to the Fair Trade Commission.
  - (5) When the Fair Trade Commission has received papers on the approval, etc. of establishment, etc. of corporation pursuant to paragraph (4), it shall promptly forward the papers on the approval, etc. of establishment, etc. corporation to the agency in charge.
- [This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

#### **Article 13 (Reporting on Current Status of Stockholding)**

- (1) Companies belonging to an enterprise group subject to the limitations on mutual investment or an enterprise group subject to the limitations on debt guarantees shall file to the Fair Trade Commission a report on the status of ownership of their stockholders, financial standing, and status of their ownership of other domestic companies' stocks, as prescribed by Presidential Decree. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 6651, Jan. 26, 2002; Act No. 9554, Mar. 25, 2009>
- (2) Companies belonging to an enterprise group subject to the limitations on debt guarantees, shall file to the Fair Trade Commission a report on the status of debt guarantees issued in favor of domestic affiliated companies after obtaining confirmation from a domestic financial institution, as prescribed by Presidential Decree. <Newly Inserted by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 6651, Jan. 26, 2002>
- (3) The proviso to [Article 12](#) (10) shall apply *mutatis mutandis* to reports referred to in paragraphs (1) and (2). <Amended by Act No. 5335, Dec. 30, 1996; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004>
- (4) Deleted. <by Act No. 5335, Dec. 30, 1996>

#### **Article 14 (Designation, etc. of Enterprise Group subject to Limitations on Mutual Investment, etc.)**

- (1) The Fair Trade Commission shall designate an enterprise group subject to the limitations on mutual investment and an enterprise group subject to the limitations on debt guarantees (hereinafter referred to as "enterprise group subject to the limitations on mutual investment, etc."), as prescribed by Presidential Decree, and shall notify companies belonging to such group thereof. <Amended by Act No. 4513, Dec. 8, 1992; Act No. 6651, Jan. 26, 2002; Act No. 9554, Mar. 25, 2009>
- (2) The provisions of [Articles 9, 10-2, 11](#) and [13](#) shall apply from the date of the receipt of notification referred to in paragraph (1). <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 9554, Mar. 25, 2009>
- (3) Notwithstanding paragraph (2), where a company designated as an enterprise group subject to the limitations on mutual investment, etc. pursuant to paragraph (1) and notified as a company belonging to an enterprise group subject to the limitations on mutual investment, etc., or a company incorporated as an affiliated company into an enterprise

group subject to the limitations on mutual investment, etc. pursuant to [Article 14-2](#) (1) and notified as a company belonging to an enterprise group subject to the limitations on mutual investment, etc., is in violation of [Article 9](#) (1) or (3), or 10-2 (1) at the time of receiving such notice, such violation shall be dealt with according to the following classification: <Amended by Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7428, Mar. 31, 2005; Act No. 9554, Mar. 25, 2009>

1. Where the company is in violation of [Article 9](#) (1) or (3) (including cases where the company issuing the stocks acquired or owned is newly incorporated as an affiliated company and comes to violate [Article 9](#) (3)), the said paragraph shall not apply for one year from the date of designation or incorporation;
2. Deleted; <by Act No. 9554, Mar. 25, 2009>
3. Where the company is in violation of [Article 10-2](#) (1) (including cases where a violation is committed as a company receiving a debt guarantee is newly incorporated as an affiliated company), the same paragraph shall not apply for two years from the date of designation or incorporation: *Provided*, That the same paragraph shall not apply until the end of the procedure for rehabilitation where the procedure for rehabilitation under the [Debtor Rehabilitation and Bankruptcy Act](#) has been commenced for the company under the provisions of other portion than each subparagraph, and until the end of the procedure for rehabilitation for the company subjected to the debt guarantee, limited exclusively to the said debt guarantee, where the company under the provisions of other portion than each subparagraph renders a debt guarantee to the company for which the procedure for rehabilitation has been commenced.
- (4) The Fair Trade Commission may request the submission of documents necessary for designating an enterprise group as referred to in paragraph (1) from a company or a person with a special relationship of the relevant company.
- (5) Any company (excluding any company whose total amount of assets falls short of the amount set by Presidential Decree as of the end of the immediately preceding business year and which is under liquidation or has suspended its business for not less than one year) belonging to an enterprise group subject to the limitations on mutual investment, etc. shall undergo an audit by a certified public accountant, and the Fair Trade Commission shall use the balance sheet revised according to the opinions on audit by the certified public accountant. <Newly Inserted by Act No. 5528, Feb. 24, 1998; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004>

#### **Article 14-2 (Incorporation in and Exclusion from Affiliated Companies)**

- (1) Where a company is to be incorporated in or excluded from affiliated companies of an enterprise group subject to the limitations on mutual investment, etc., the Fair Trade Commission shall, upon request by the company concerned (including a person with a special interest in the company; hereafter the same shall apply in this Article) or *ex officio*, determine whether the company may be categorized as an affiliated company of a large enterprise group, and either incorporate the company in the affiliated companies, or exclude it from the affiliated companies. <Amended by Act No. 6651, Jan. 26, 2002>
- (2) Where the Fair Trade Commission deems it necessary for determination referred to in paragraph (1), it may request that the company concerned submit data, such as the composition of stockholders and directors, status of debt guarantees, financial standing, transaction data, and other related matters.
- (3) Upon request of determination referred to in paragraph (1), the Fair Trade Commission shall notify the requesting person of the results thereof within 30 days: *Provided*, That the Fair Trade Commission may, if deemed necessary, extend such period by up to 60 days.  
[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 14-3 (Incorporation into Affiliated Company and Presumption of Notification Date)**

Where a company which receives a request under [Article 14](#) (4) or [14-2](#) (2) refuses to submit data without justifiable grounds or submits false data, and thereby is not incorporated into an enterprise group subject to the limitations on mutual investment, etc. though it should be incorporated, the company shall be deemed to be incorporated into an enterprise group



subject to the limitations on mutual investment, etc. and is given notification thereof on the date prescribed by Presidential Decree. <Amended by Act No. 6651, Jan. 26, 2002>  
[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

#### **Article 14-4 (Request for Confirmation of Documents before Competent Institutions)**

The Fair Trade Commission may, if deemed necessary for the sake of enforcing the provisions of [Articles 9 through 11](#) and [13 through 14-2](#), request the institutions falling under any of the following subparagraphs to confirm or investigate the data relating to the status of the ownership of stockholders of domestic affiliated companies belonging to an enterprise group subject to the limitations on mutual investment, etc., the data relating to debt guarantees, the data relating to advanced payments, loans, or securities, the data relating to transactions or provision of immovable assets, and other necessary matters: <Amended by Act No. 5491, Dec. 31, 1997; Act No. 5498, Jan. 8, 1998; Act No. 5528, Feb. 24, 1998; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007; Act No. 8863, Feb. 29, 2008>

1. The Financial Supervisory Service established under the [Act on the Establishment, etc. of Financial Services Commission](#);
2. Deleted; <by Act No. 5528, Feb. 24, 1998>
3. Domestic financial institutions pursuant to any subparagraph of [Article 10-2](#) (2);
4. Other institutions set forth in Presidential Decree as related to financial or stock transactions.

[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 14-5 (Disclosure of Information on Current Conditions, etc. of Enterprise Groups subject to Limitations on Mutual Investment)**

- (1) The Fair Trade Commission may make public the following information on companies belonging to an enterprise group subject to the limitations on mutual investment to prevent the excessive concentration of economic strength, enhance transparency in such enterprise group, etc.:
  1. Information on the general conditions, status of corporate governance structure, etc. of companies belonging to the enterprise group subject to the limitations on mutual investment, which is prescribed by Presidential Decree;
  2. Information on investment, debt guarantee, business relations, etc. between the companies belonging to the enterprise group subject to the limitations on mutual investment or between a company belonging to the enterprise group subject to the limitations on mutual investment and the specially-related persons thereof, which is prescribed by Presidential Decree.
- (2) The Fair Trade Commission may build and operate an information system to efficiently process and make public the information referred to in the subparagraphs of paragraph (1).
- (3) With respect to the disclosure of information except for those provided for in paragraphs (1) and (2), the [Official Information Disclosure Act](#) shall apply.

[This Article Newly Inserted by Act No. 8382, Apr. 13, 2007]

#### **Article 15 (Prohibition on Unlawful Practices)**

- (1) No one shall perform any act of evading the application of the provisions of [Article 7](#) (1), [8-2](#) (2) through (5), [8-3](#), [9](#), [10-2](#) (1), or [11](#). <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009>
- (2) The categories of and standards for unlawful practices under paragraph (1) shall be determined by Presidential Decree. <Newly Inserted by Act No. 5335, Dec. 30, 1996>

#### **Article 16 (Corrective Measures, etc.)**

- (1) Where any company has violated or is likely to violate the provisions of [Article 7](#) (1), [8-2](#) (2) through (5), [8-3](#), [9](#), [10-2](#) (1), [11](#), [11-2](#) through [11-4](#), or [15](#), the Fair Trade Commission may order such company [referring to the company (including the specially related person in cases where it is difficult to correct the abuses due to restrictions on competition only by corrective measures to the company involved in the combination of enterprises or it is

necessary to correct abuses due to restriction on competition in the field where the person specially related to the company involved in the combination of enterprises) involved in the combination of enterprises in cases of violation of [Article 7](#) (1)] or violator to take one of the corrective measures falling under the following subparagraphs. In such cases, where the Fair Trade Commission issues an order, upon the report under the proviso to [Article 12](#) (6), it shall do so within the period prescribed in [Article 12](#) (7):

*<Amended by Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009>*

1. Cessation of the practice concerned;
  2. Disposal of all or some of the stocks;
  3. Resignation of executives;
  4. Transfer of business;
  5. Cancellation of debt guarantees;
  6. Publication of the fact that it is ordered to take corrective measures;
  7. Restrictions on business method or business scope which is able to prevent the negative effects of restricted competition incidental to the combination of enterprises;
  - 7-Performance of the publication duty or correction of details of the publication;
  - 2.
  8. Other measures necessary to correct such violations.
- (2) The Fair Trade Commission may, where a company is merged or established in violation of [Article 7](#) (1), [8-3](#), or [12](#) (7), file a lawsuit to nullify the said merger or establishment of companies concerned. *<Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>*
- (3) The Fair Trade Commission may prescribe and announce standards for imposition of corrective measures in the subparagraphs of paragraph (1) for acts violating [Article 7](#) (1). *<Newly Inserted by Act No. 8631, Aug. 3, 2007>*

#### **Article 17 (Penalty Surcharges)**

- (1) The Fair Trade Commission may impose a penalty surcharge on a company which has acquired or owned stocks in violation of [Article 9](#) within the limits not exceeding the amount multiplied by 10/100 of acquisition value of the stocks acquired or owned. *<Amended by Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 6043, Dec. 28, 1999; Act No. 9554, Mar. 25, 2009>*
- (2) The Fair Trade Commission may impose a penalty surcharge on a company which has guaranteed debt in violation of [Article 10-2](#) (1) within the limits not exceeding the amount multiplied by 10/100 of the amount of debt guarantees regarding the violations of relevant provisions. *<Newly Inserted by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 6371, Jan. 16, 2001>*
- (3) *Deleted. <by Act No. 5813, Feb. 5, 1999>*
- (4) The Fair Trade Commission may impose a penalty surcharge not exceeding the amount obtained by the multiplication of the amount falling under each of the following subparagraphs by 10/100 on anyone who violates any of [Article 8-2](#) (2) through (5): *<Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007>*
1. The amount of liabilities that exceeds twice the total amount of capital on the balance sheet prescribed by Presidential Decree (hereafter referred to as "standard balance sheet" in this paragraph) in cases where he/she violates [Article 8-2](#) (2) 1;
  2. The amount calculated by dividing the amount obtained by multiplying the total amount of the book value on the standard balance sheet of the stocks of the relevant subsidiary by the ratio that subtracts the ownership ratio of the stocks of the subsidiary from the ratio falling under each of the following items, by the ownership ratio of the stocks of the subsidiary, in cases where he/she violates [Article 8-2](#) (2) 2:
    - (a) In cases where the relevant subsidiary is a listed corporation, an overseas listed

corporation, a joint stock corporation or the subsidiary of a venture holding company, 20/100;

- (b) Deleted; <by Act No. 8382, Apr. 13, 2007>
- (c) In cases where the relevant subsidiary does not fall under item (a), 40/100;
- 3. In cases where he/she violates [Article 8-2](#) (2) 3 through 5, (3) 2, (4) or (5), the total amount of the book value on the standard balance sheet of the stocks that he/she holds by violating such provisions;
- 4. In cases where he/she violates [Article 8-2](#) (3) 1, the amount calculated by dividing the amount obtained by multiplying the total amount of the book value on the standard balance sheet of the stocks of the relevant second-tier company by the ratio that subtracts the ownership ratio of the stocks of the second-tier company from the ratio falling under each of the following items, by the ownership ratio of the shares of the second-tier company:
  - (a) In cases where the relevant second-tier company is a listed corporation, an overseas listed corporation or a joint stock corporation, 20/100;
  - (b) In cases where the relevant second-tier company does not fall under item (a), 40/100.

**Article 17-2 Deleted.** <by Act No. 9554, Mar. 25, 2009>

#### **Article 17-3 (Compulsory Performance Money)**

- (1) The Fair Trade Commission may impose compulsory performance money on a person who fails to fulfill corrective measures within the specified period after he/she was subject to them pursuant to [Article 16](#) in violation of [Article 7](#) (1) within the limits not exceeding the amount obtained by multiplying 3/10,000 by the following amount per day: *Provided*, That the Fair Trade Commission may impose compulsory performance money on a person who made the combination of enterprises listed in [Article 7](#) (1) 2 within the limits not exceeding two million won per day: <Amended by Act No. 8631, Aug. 3, 2007>
  - 1. The total amount of the book value of stocks acquired or owned and liabilities accepted, for the combination of enterprises listed in [Article 7](#) (1) 1 or 5;
  - 2. The total amount of the book value of stocks issued in return for a merger and liabilities accepted, for the combination of enterprises listed in [Article 7](#) (1) 3;
  - 3. The amount of business takeover, for the combination of enterprises listed in [Article 7](#) (1) 4.
- (2) The matters necessary for the imposition, payment, collection and refund of compulsory performance money shall be determined by Presidential Decree: *Provided*, That the compulsory performance money in arrears shall be collected in the same manner as dispositions of national taxes in arrears.
- (3) The Fair Trade Commission may entrust the Commissioner of the National Tax Service with the business on the collection of compulsory performance money or dispositions of compulsory performance money in arrears under paragraphs (1) and (2).

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

#### **Article 18 (Enforcing Compliance with Corrective Measures)**

- (1) No company which has been ordered to dispose of stocks pursuant to [Article 16](#) (1) shall exercise voting rights with respect to such stocks from the date of receiving of such order. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 8631, Aug. 3, 2007>
- (2) No company which has made a cross-capital investment in violation of [Article 9](#) shall exercise voting rights to the whole of such stocks from the date of receiving a corrective order, until the violation has been corrected. <Amended by Act No. 5335, Dec. 30, 1996>
- (3) and (4) Deleted. <by Act No. 9554, Mar. 25, 2009>

[This Article Wholly Amended by Act No. 4513, Dec. 8, 1992]

## **CHAPTER IV RESTRICTIONS ON UNFAIR COLLABORATIVE ACTS**

### **Article 19 (Prohibition of Unfair Collaborative Acts)**

- (1) No enterpriser shall agree with other enterprisers by contract, agreement, resolution, or any other means, to jointly engage in an act falling under any of the following subparagraphs, which unfairly restricts competition (hereinafter referred to as "unfair collaborative act") or allow any other enterpriser to perform such unfair collaborative act: *<Amended by Act No. 4513, Dec. 8, 1992; Act No. 4790, Dec. 22, 1994; Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>*
1. Fixing, maintaining or changing the price;
  2. Determining terms and conditions for the transaction of goods or services, or for payment of prices thereof;
  3. Restricting production, delivery, transportation, or transaction of goods or restricting transaction of services;
  4. Limiting the area in which a transaction arises or the transaction counterpart;
  5. Preventing or restricting the establishment or extension of facilities or the installation of equipment necessary for the production of goods or the rendering of services;
  6. Restricting kinds and standards of goods or services when they are produced or traded;
  7. Jointly carrying out, managing the main parts of business or establishing a company, etc. to jointly carry out and manage it;
  8. Deciding successful bidder, successful auctioneer, bidding price, highest price or contract price, and other matters prescribed by Presidential Decree;
  9. Practically restricting competition in a particular business area by means of interfering or restricting the activities or contents of business by other enterprisers (including the enterpriser who has conducted the activity), which is other than the act referred to in subparagraphs 1 through 8.
- (2) The provisions of paragraph (1) shall not apply, where unfair collaborative practices are authorized by the Fair Trade Commission as satisfying the requirements prescribed by Presidential Decree, and they are conducted for any of the following purposes: *<Newly Inserted by Act No. 5335, Dec. 30, 1996>*
1. Industry rationalization;
  2. Research and technology development;
  3. Overcoming of economic depression;
  4. Industrial restructuring;
  5. Rationalization of trade terms and conditions;
  6. Improvement of competitiveness of small and medium enterprises.
- (3) Necessary matters with respect to the standards, methods, and procedures of authorization under paragraph (2) and modification of authorized matters shall be determined by Presidential Decree. *<Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999>*
- (4) Any contract, etc. stipulating unfair collaborative acts as referred to in paragraph (1) shall be null and void between enterprisers.
- (5) Where two or more enterprisers conduct an act falling under any subparagraph of paragraph (1), it shall be assumed that the enterprisers have agreed to conduct an act in association falling under any subparagraph of paragraph (1) when it is highly probable to reckon that they did the act in association regarding the characteristic of the relevant transaction, goods or services, economic reasons and ripple effects of the relevant activity, frequency, mode, etc. of contact among enterprisers. *<Amended by Act No. 8631, Aug. 3, 2007>*
- (6) The Fair Trade Commission may prescribe and announce the standards for examination of unfair collaborative acts. *<Newly Inserted by Act No. 8631, Aug. 3, 2007>*

#### **Article 19-2 (Measure for Prevention of Collaborative Acts concerning Public Sector Bidding)**

- (1) The Fair Trade Commission may request for the submission of data on bidding and other cooperations to the heads of central administrative agencies, local governments or public enterprises under the [Act on the Management of Public Institutions](#) (hereinafter referred to as "head of a public agency") to uncover or prevent unfair collaborative acts related to

bidding ordered by the State, local governments or public enterprises under the [Act on the Management of Public Institutions](#). <Amended by Act No. 9554, Mar. 25, 2009>

- (2) When the head of a public agency prescribed by Presidential Decree announces bidding or when a successful bidder is determined, he/she shall submit information on the bidding to the Fair Trade Commission.
- (3) The extent of information on the bidding that has to be submitted to the Fair Trade Commission pursuant to paragraph (2) and procedures for submission thereof shall be prescribed by Presidential Decree.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

**Article 20 Deleted.** <by Act No. 5335, Dec. 30, 1996>

#### **Article 21 (Corrective Measures)**

When any collaborative act is performed in violation of [Article 19](#) (1), the Fair Trade Commission may order the enterpriser concerned to discontinue such act, to publish the fact that the relevant enterpriser is ordered to correct such collaborative act, or to take necessary corrective measures. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 7315, Dec. 31, 2004>

#### **Article 22 (Penalty Surcharges)**

When any act is performed in violation of [Article 19](#) (1), the Fair Trade Commission may impose a penalty surcharge on the relevant enterpriser within the limits not exceeding the amount equivalent to 10/100 of the turnover determined by Presidential Decree: *Provided*, That in cases of an absence of the turnover, etc., a surcharge of not exceeding two billion won may be imposed. <Amended by Act No. 7315, Dec. 31, 2004>

*[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]*

#### **Article 22-2 (Reduction, Exemption, etc. for Voluntary Reporters, etc.)**

- (1) With respect to the persons falling under any of the following subparagraphs, the corrective measures under [Article 21](#) or the penalty surcharge under [Article 22](#) may be mitigated or exempted: <Amended by Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>
  1. Persons who have reported voluntarily on the fact of unfair collaborative acts;
  2. Persons who have cooperated in the investigation by means of furnishing evidence, etc.
- (2) The Fair Trade Commission and public officials under its control shall not supply or divulge information and data related to voluntary reporting or giving report, such as the identity, detail of information, etc. of the persons who have filed the voluntary report or cooperated except for the cases prescribed by Presidential Decree, such as the cases, etc. necessary for the execution of litigation. <Newly Inserted by Act No. 8631, Aug. 3, 2007>
- (3) Matters necessary for the scope of persons to be mitigated or exempted under paragraph (1), standard or extent, etc. of mitigation or exemption and detailed matters regarding prohibition of supply and disclosure of information and data pursuant to paragraph (2) shall be determined by Presidential Decree. <Amended by Act No. 6371, Jan. 16, 2001; Act No. 8631, Aug. 3, 2007>

*[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]*

## **CHAPTER V PROHIBITION OF UNFAIR TRADE PRACTICES**

#### **Article 23 (Prohibition of Unfair Trade Practices)**

- (1) No enterpriser shall commit any act which falls under any of the following subparagraphs, and which is likely to impede fair trade (hereinafter referred to as "unfair trade practices"), or make an affiliated company or other enterprisers perform such act: <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8382, Apr. 13, 2007>
  1. Unfairly refusing any transaction, or discriminating against a certain transacting partner;
  2. Unfairly excluding competitors;

3. Unfairly coercing or inducing customers of competitors to deal with oneself;
  4. Trading with a certain transacting partner by unfairly taking advantage of his/her position in trade;
  5. Trading under the terms and conditions which unfairly restrict business activities of a transacting party or disrupting business activities of another enterpriser;
  6. *Deleted; <by Act No. 5814, Feb. 5, 1999>*
  7. Assisting a person with a special interest, or other companies by providing advanced payment, loans, manpower, immovable assets, securities, goods, services, right on intangible properties, etc. thereto, or by transacting under substantially favorable terms therewith;
  8. An act likely to impair fair trade, other than those listed in subparagraphs 1 through 7.
- (2) The categories or standards for unfair trade practices shall be determined by Presidential Decree. *<Amended by Act No. 5335, Dec. 30, 1996>*
- (3) If it is necessary to prevent acts of violating paragraph (1), the Fair Trade Commission may make and announce the guidelines to be observed by enterprisers.
- (4) In order to prevent an unreasonable inducement of customers, the enterprisers or an enterprisers' organization may voluntarily make a code (hereinafter referred to as "fair competition code"). *<Amended by Act No. 5814, Feb. 5, 1999>*
- (5) Enterprisers or an enterprisers' organization may request that the Fair Trade Commission examine whether or not the fair competition code as referred to in paragraph (4) is in violation of paragraph (1) 3 or 6.

#### **Article 24 (Corrective Measures)**

The Fair Trade Commission may, when there exists an act of violating [Article 23](#) (1), order the enterpriser concerned to discontinue the unfair trade practices, to delete the pertinent provisions from the contract, to publish the fact that the enterpriser is ordered to take corrective measures or to take other necessary corrective measures against the said act. *<Amended by Act No. 5335, Dec. 30, 1996; Act No. 5814, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004>*

#### **Article 24-2 (Penalty Surcharges)**

When any act is performed in violation of [Article 23](#) (1), the Fair Trade Commission may impose upon the enterpriser concerned a penalty surcharge not exceeding the amount obtained by multiplying the turnover determined by Presidential Decree by 2/100 (5/100 in cases of violating subparagraph 7): *Provided*, That in cases of absence of the turnover, etc., a penalty surcharge of not exceeding five hundred million won may be imposed. *<Amended by Act No. 6043, Dec. 28, 1999; Act No. 7315, Dec. 31, 2004>*  
*[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]*

## **CHAPTER VI ENTERPRISERS' ORGANIZATION**

**Article 25** *Deleted. <by Act No. 5813, Feb. 5, 1999>*

#### **Article 26 (Prohibited Activities of Enterprisers' Organization)**

- (1) No enterprisers' organization shall commit any of the following acts: *<Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999>*
1. Unfairly restricting competition through an act falling under any subparagraph of [Article 19](#) (1);
  2. Restricting the present or future number of enterprisers in any business area;
  3. Unreasonably restricting the business contents or activities of member enterprisers (referring to an enterpriser who is a member of the enterprisers' organization; hereinafter the same shall apply);
  4. Inducing or assisting an enterpriser to conduct unfair trade practices under each subparagraph of [Article 23](#) (1), or to conduct practices of resale price maintenance under [Article 29](#);

5. Deleted. <by Act No. 5814, Feb. 5, 1999>
- (2) [Article 19](#) (2) and (3) shall apply *mutatis mutandis* to cases as referred to in paragraph (1)
1. In such cases, "enterpriser" shall be construed as "enterprisers' organization".  
<Amended by Act No. 5335, Dec. 30, 1996; Act No. 8631, Aug. 3, 2007>
- (3) If it is necessary for preventing any act of violating paragraph (1), the Fair Trade Commission may establish and announce any guidelines to be observed by the enterprisers' organization.
- (4) If the Fair Trade Commission intends to establish the guidelines as referred to in paragraph (3), it shall hear opinions from the heads of the related administrative agencies.

#### **Article 27 (Corrective Measures)**

The Fair Trade Commission may, when there exists an act of violating [Article 26](#), order the enterprisers' organization concerned (if necessary, it includes the member enterprisers concerned) to discontinue the said act, to publish the fact that the enterprisers' organization is ordered to take corrective measures or to take other necessary corrective measures.  
<Amended by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 5814, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004>  
<This Article was amended by Act No. 7315 promulgated on December 31, 2004 pursuant to the declaration of unconstitutionality made on January 31, 2002.>

#### **Article 28 (Penalty Surcharges)**

- (1) Where an offense falling under any subparagraph of [Article 26](#) (1) occurs, the Fair Trade Commission may impose upon the enterprisers' organization concerned a penalty surcharge of not exceeding 500 million won.
- (2) The Fair Trade Commission may impose upon an enterpriser involved in practices violating any subparagraph of [Article 26](#) (1) a penalty surcharge of not exceeding the amount obtained by multiplying the turnover determined by Presidential Decree by 5/100: *Provided*, That in cases of absence of the turnover, etc., a penalty surcharge of not exceeding 500 million won may be imposed.  
[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

## **CHAPTER VII RESTRICTIONS ON RESALE PRICE MAINTENANCE**

#### **Article 29 (Restrictions on Resale Price Maintenance)**

- (1) No enterpriser shall engage in a resale price maintenance: *Provided*, That this shall not apply where there exist justifiable reasons in terms of the maximum price maintenance preventing the transactions of commodities or services in excess of specified prices.  
<Amended by Act No. 6371, Jan. 16, 2001>
- (2) The provisions of paragraph (1) shall not apply to literary works prescribed by Presidential Decree, or to those commodities which meet all of the following conditions and have been designated in advance by the Fair Trade Commission as being eligible for a resale price maintenance:
1. The uniformness in quality of the commodity concerned shall be easily identified;
  2. The commodity concerned shall be used daily by ordinary customers;
  3. Free competition shall exist with respect to the commodity concerned.
- (3) Where an enterpriser desires to be so designated as provided for in paragraph (2), he/she shall apply to the Fair Trade Commission, as prescribed by Presidential Decree.
- (4) The Fair Trade Commission shall make it public whenever it designates a commodity as being eligible for resale price maintenance under paragraph (2).

#### **Article 30 (Modification of Resale Price Maintenance)**

Where an enterpriser who produces or sells a commodity which the Fair Trade Commission designates and makes public under [Article 29](#) (4) concludes a contract in order to determine the resale price of the said commodity and maintain the said price, and the contract is likely to cause serious injury to the interests of consumers, the Fair Trade Commission may order

modification of the terms of the contract. <Amended by Act No. 8631, Aug. 3, 2007>  
[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

#### **Article 31 (Corrective Measures)**

The Fair Trade Commission may, when there exists an act in violation of [Article 29](#) (1), order the enterpriser concerned to discontinue the said act, to publish the fact that the enterpriser is ordered to take corrective measures or to take other necessary corrective measures against the said act. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 7315, Dec. 31, 2004>

#### **Article 31-2 (Penalty Surcharges)**

In cases of a resale price maintenance in violation of [Article 29](#), the Fair Trade Commission may impose upon the enterpriser concerned a penalty surcharge not exceeding the amount obtained by multiplying the turnover determined by Presidential Decree by 2/100: *Provided*, That in cases of an absence of the turnover, etc., a penalty surcharge of not exceeding 500 million won may be imposed.

[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

## **CHAPTER VIII RESTRICTIONS ON CONCLUSION OF UNFAIR INTERNATIONAL CONTRACTS**

#### **Article 32 (Restrictions on Conclusion of Unfair International Contracts)**

- (1) No enterpriser or enterprisers' organization shall enter into an international agreement or international contract prescribed by Presidential Decree (hereinafter referred to as "international contract") containing matters concerning unfair collaborative acts, unfair trade practices or resale price maintenance: *Provided*, That this shall not apply where the Fair Trade Commission deems the effect of the said international contract upon competition in a particular business area to be negligible or deems that there are other unavoidable reasons for the said contract. <Amended by Act No. 4790, Dec. 22, 1994>
- (2) The types and standards of unfair collaborative acts, unfair trade practices or resale price maintenance as referred to in paragraph (1) may be determined and publicly announced by the Fair Trade Commission. <Amended by Act No. 4513, Dec. 8, 1992>

#### **Article 33 (Request for Review on International Contracts)**

Upon entering into an international contract, the enterpriser or enterprisers' organization may request that the Fair Trade Commission review whether the contract violates [Article 32](#) (1), as prescribed by Presidential Decree. <Amended by Act No. 5335, Dec. 30, 1996>  
[This Article Wholly Amended by Act No. 4790, Dec. 22, 1994]

#### **Article 34 (Corrective Measures)**

The Fair Trade Commission may, when an international contract violates or is likely to violate [Article 32](#) (1), order the enterpriser or the enterprisers' organization concerned to cancel the contract, to amend or alter the said contract, or to take other necessary corrective measures. <Amended by Act No. 4790, Dec. 22, 1994; Act No. 5335, Dec. 30, 1996>

#### **Article 34-2 (Penalty Surcharges)**

In cases of the conclusion of international contracts in violation of the main sentence of [Article 32](#) (1), the Fair Trade Commission may impose upon the relevant enterprisers' organization a penalty surcharge of not exceeding 500 million won, or upon the enterpriser concerned a penalty surcharge of not exceeding the amount obtained by multiplying the turnover determined by Presidential Decree by 2/100: *Provided*, That in cases of an absence of turnover, etc., a penalty surcharge of not exceeding 500 million won may be imposed.  
[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

## **CHAPTER IX ENFORCEMENT AGENCY**

#### **Article 35 (Establishment of Fair Trade Commission)**



- (1) The Fair Trade Commission shall be established under the jurisdiction of the Prime Minister for the purpose of independently performing the objectives of this Act.
- (2) The Fair Trade Commission shall carry out its functions as one of the central administrative agencies pursuant to [Article 2 of the Government Organization Act](#).  
<Amended by Act No. 8631, Aug. 3, 2007>  
[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

#### **Article 36 (Matters under Jurisdiction of Fair Trade Commission)**

Matters under the jurisdiction of the Fair Trade Commission shall be as follows:

1. Matters relating to regulating the abuse of market-dominating positions;
2. Matters relating to restricting the combination of enterprises and preventing the concentration of economic power;
3. Matters relating to regulating unfair collaborative acts and anti-competitive behavior on the part of an enterprisers' organization;
4. Matters relating to regulating unfair trade practices and resale price maintenance;
5. Matters relating to preventing the conclusion of unfair international contracts;
6. Matters relating to competition encouragement policies through consultation, coordination with respect to Acts and subordinate statutes and administrative measures which restrict competition;
7. Other matters which are to be handled by the Fair Trade Commission under other Acts and subordinate statutes.

#### **Article 36-2 (International Cooperation of Fair Trade Commission)**

- (1) The Government may conclude treaties with foreign governments within the scope of not violating Acts and not infringing on interests of the Republic of Korea in order to enforce this Act.
- (2) The Fair Trade Commission may assist foreign governments in enforcing Acts according to the treaties concluded pursuant to paragraph (1).
- (3) Where any foreign government with which any treaty is not concluded pursuant to paragraph (1) asks for the Government's assistance in the enforcement of Acts on the condition that the former complies with the request of the Republic of Korea's assistance in the enforcement of Acts on the same or similar matters, the Fair Trade Commission may assist the foreign country in the enforcement of Acts.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

#### **Article 37 (Composition, etc. of Fair Trade Commission)**

- (1) The Fair Trade Commission shall be comprised of nine commissioners, including a chairman and a vice-chairman, and four commissioners of them shall be non-standing members of the Fair Trade Commission. <Amended by Act No. 5335, Dec. 30, 1996>
- (2) The standing and non-standing commissioners of the Fair Trade Commission (hereinafter referred to as "commissioners") shall be appointed by the President from among those persons who have experience or knowledge specialized in the field of monopoly regulation, fair trade or consumerism, and meet any of the following qualifications. In such cases, the chairman and vice-chairman shall be appointed upon the recommendation of the Prime Minister and the other commissioners, upon the recommendation of the chairman: <Amended by Act No. 4831, Dec. 23, 1994; Act No. 7796, Dec. 29, 2005; Act No. 8631, Aug. 3, 2007>
  1. Any person who has served as a public official of Grade II or higher (including public official in general service belonging to the Senior Civil Service);
  2. Any person who has careers as a judge, prosecutor or attorney for 15 or more years;
  3. Any person who has majored in the studies related to law, economics, business administration or consumerism, and has served for 15 or more years at a university or publicly authorized research institute as an associate professor or higher or a position a corresponding thereto;
  4. Any person who has served in the field of business management and consumer protection activities for 15 or more years.
- (3) The chairman and the vice-chairman shall be considered political appointees, while the

other standing commissioners shall be considered public officials in extraordinary service belonging to the Senior Civil Service. <Amended by Act No. 7796, Dec. 29, 2005>

- (4) The chairman, the vice-chairman, and the head of the Secretariat under [Article 47](#) shall be an executive representative, despite the provisions of [Article 10 of the Government Organization Act](#). <Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5529, Feb. 28, 1998; Act No. 8631, Aug. 3, 2007>

#### **Article 37-2 (Types of Meetings)**

Meetings of the Fair Trade Commission shall be categorized as a meeting comprised of all members (hereinafter referred to as "plenary session"), and a meeting comprised of three members including a standing commissioner (hereinafter referred to as "chamber").

[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 37-3 (Subjects of Plenary Session and Chamber)**

- (1) The plenary session shall deliberate and determine the following matters: <Amended by Act No. 6371, Jan. 16, 2001>
1. Matters as to an interpretation or application of Acts and subordinate statutes, regulations, and public announcement under the jurisdiction of the Fair Trade Commission;
  2. Matters as to an appeal under [Article 53](#);
  3. Matters on which resolutions have not been made in a chamber, or which a chamber has decided to refer them to the plenary session;
  4. Matters necessary to make or reform regulations or public announcement;
  5. Matters having substantial economic impacts or those recognized as necessary for being dealt with by the plenary session itself.
- (2) A chamber may deliberate or determine matters, other than those falling under each subparagraph of paragraph (1).

[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 38 (Chairman)**

- (1) The chairman shall represent the Fair Trade Commission.
- (2) The chairman may attend and take the floor at the State Council.
- (3) If the chairman is unable to carry out his/her duties due to any accident, the vice-chairman shall act for him/her. If both of the chairman and the vice-chairman are unable to perform their duties due to any accident, standing commissioners shall act for them in the order of seniority. <Amended by Act No. 5813, Feb. 5, 1999>

#### **Article 39 (Term of Office of Commissioner)**

The term of office of the chairman, vice-chairman and commissioners shall be three years, and may be renewed only once. <Amended by Act No. 6371, Jan. 16, 2001>

#### **Article 40 (Guarantee of Commissioner's Status)**

No commissioner shall be removed from office contrary to his/her intention except in any of the following cases:

1. Where he/she has been sentenced to imprisonment without prison labor or severer;
2. Where he/she becomes incapable of performing his/her duties due to prolonged physical or mental weakness.

#### **Article 41 (Prohibition of Commissioner's Political Activities)**

No commissioner may enter a political party, or participate in any political activity.

#### **Article 42 (Proceedings and Quorum of Meetings)**

- (1) Proceedings of the plenary session shall be presided over by the chairman, and resolutions shall be passed with the concurrent vote of a majority of all members. <Amended by Act No. 5813, Feb. 5, 1999>
- (2) Proceedings of a chamber shall be presided over by one of the standing members, and resolutions shall be passed with the presence of all members, and by a unanimous vote of the members present.

[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

#### **Article 43 (Disclosure of Trial and Resolutions and Confidentiality of Agreement)**

- (1) The trial and resolution by the Fair Trade Commission shall be disclosed: *Provided*, That this shall not apply where the Fair Trade Commission deems it necessary to protect trade secrets of an enterpriser or enterprisers' organization.
- (2) In principle, the trial of the Fair Trade Commission shall be conducted orally, but may be conducted in written if necessary. <Newly Inserted by Act No. 8631, Aug. 3, 2007>
- (3) The agreement on a resolution for a case by the Fair Trade Commission shall not be disclosed.

[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

#### **Article 43-2 (Maintenance of Good Order in Venue of Adjudicatory Proceedings)**

The chairman of the plenary session or a chamber is authorized to issue necessary orders to maintain good order in the venue of the adjudicatory proceedings with regard to the parties, those having interest in the result of the proceedings, witnesses, and those attending the venue.

[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 44 (Challenge, Discharge, and Withdrawal of Commissioners)**

- (1) Any commissioner may be challenged with regard to deliberation or resolution of cases falling under any of the following subparagraphs: <Amended by Act No. 7315, Dec. 31, 2004>
  1. Where the challenged commissioner himself/herself, his/her spouse or ex-spouse is one of the parties, or has rights or liabilities held jointly with other persons;
  2. Where the challenged commissioner has a relationship of affinity with one of the parties, or he/she or a corporation to which he/she belongs is involved in advisory or consulting services as to legal or managerial matters of one of the parties;
  3. Where the challenged commissioner or a corporation to which he/she belongs has testified or attested;
  4. Where the challenged commissioner or a corporation to which he/she belongs has acted or is acting as an agent of one of the parties;
  5. Where the challenged commissioner or a corporation to which he/she belongs has participated in any act or its omission which have been subject matter of cases;
  6. Where anyone who is a public official belonging to the Fair Trade Commission investigates or examines the relevant case.
- (2) One of the parties may apply for the discharge of commissioner, where it appears to him/her to be impossible that deliberations or resolutions may be made on fair terms. An application for the discharge of commissioner shall be determined by the chairman without any resolutions by the Commission.
- (3) A commissioner may withdraw himself/herself from the deliberation and resolution of cases before him/her, where he/she falls under a ground referred to in any subparagraph of paragraph (1) or under a ground referred to in paragraph (2).

[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]

#### **Article 45 (Preparation and Correction of Written Decision)**

- (1) Where the Fair Trade Commission makes a decision on matters violating the provisions of this Act, it shall make a written decision specifying the reason thereof, and such written decision shall be signed and sealed by the commissioners who have participated in the decision. <Amended by Act No. 5813, Feb. 5, 1999>
- (2) When it is evident that there are errors in writing, miscalculation, or other similar mistakes in the written decision, etc., the Fair Trade Commission may correct them upon application or *ex officio*. <Newly Inserted by Act No. 8631, Aug. 3, 2007>

**Article 46 Deleted.** <by Act No. 8631, Aug. 3, 2007>

#### **Article 47 (Establishment of Secretariat)**

The Secretariat shall be established in the Fair Trade Commission for the purpose of carrying out the affairs of the Fair Trade Commission.

#### **Article 48 (Provisions concerning Organization)**

- (1) Matters not provided for in this Act but which are necessary for the organization of the Fair Trade Commission shall be determined by Presidential Decree.
- (2) Matters not provided for in this Act but which are necessary for the operation of the Fair Trade Commission shall be determined by the Rules of the Fair Trade Commission.  
<Newly Inserted by Act No. 5335, Dec. 30, 1996>

### **CHAPTER IX-2 ESTABLISHMENT OF KOREA FAIR TRADE MEDIATION AGENCY AND MEDIATION OF DISPUTES**

#### **Article 48-2 (Establishment, etc. of Korea Fair Trade Mediation Agency)**

- (1) The Korea Fair Trade Mediation Agency (hereinafter referred to as the "Mediation Agency") shall be established to execute the following duties:
  1. Mediation of disputes regarding acts under suspicion of violation of [Article 23](#) (1);
  2. Mediation of disputes between parties to franchise business pursuant to the [Fair Transactions in Franchise Business Act](#);
  3. Analysis of market and industry, research and analysis of practice and behavior of enterprisers;
  4. Other businesses entrusted by the Fair Trade Commission.
- (2) The Mediation Agency shall be a juristic person.
- (3) The president of the Mediation Agency shall be appointed by the chairman of the Fair Trade Commission from among the persons falling under any subparagraph of [Article 37](#) (2).
- (4) The Government may contribute or assist expenses incurred in the establishment and operation of the Mediation Agency within budgetary limits.
- (5) The provisions regarding incorporated foundations in the [Civil Act](#) shall apply *mutatis mutandis* to the matters regarding the Mediation Agency, except as otherwise provided for expressly by this Act.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

#### **Article 48-3 (Establishment and Composition of Fair Trade Dispute Mediation Council)**

- (1) In order to mediate disputes regarding acts under suspicion of violation of [Article 23](#) (1), the Fair Trade Dispute Mediation Council (hereinafter referred to as the "Council") shall be established within the Mediation Agency.
- (2) The Council shall be comprised of seven or fewer members including one chairperson.
- (3) The president of the Mediation Agency shall also hold the position of the chairperson of the Council.
- (4) The members of the Council shall be appointed or entrusted by the chairman of the Fair Trade Commission on the recommendation of the president of the Mediation Agency from among the persons who have experience and specialized knowledge in the field of monopoly regulation, fair trade or consumerism, and who fall under any of the following subparagraphs. In such cases, one or more persons falling under any of the following subparagraphs shall be included therein:
  1. A person who has been in the position of a public official meeting the requirements prescribed by Presidential Decree;
  2. A person who has been in the position of a judge, prosecutor, or attorney for at least the period prescribed by Presidential Decree;
  3. A person who has majored in the studies related to law, economics, business administration or consumerism, and has served for at least the period prescribed by Presidential Decree at a university or publicly authorized research institute as an associate professor or higher or a position corresponding thereto;
  4. A person who has a past career in business administration or consumer protection activities for at least the period prescribed by Presidential Decree.
- (5) The term of office of a member of the Council shall be three years and reappointment is allowed.

- (6) When there is a vacancy in any member of the Council, a substitute member shall be appointed pursuant to paragraph (4) and the term of office of the substitute member shall be the period remaining on his/her predecessor's term.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

#### **Article 48-4 (Meetings of Council)**

- (1) The chairperson of the Council shall call a meeting of the Council and chair the meeting.
- (2) The Council shall start deliberation with the attendance of a majority of the members enrolled, and pass a resolution with the approval of a majority of the members present.
- (3) When the chairperson of the Council is unable to fulfill his/her duties due to an accident, the member of the Council designated by the chairman of the Fair Trade Commission shall conduct the duty as proxy.
- (4) Enterprisers who are parties to a dispute which has become the subject matter of mediation (hereinafter referred to as "party to a dispute") may attend the Council and express his/her opinion.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

#### **Article 48-5 (Exclusion, Challenge and Withdrawal of Members of Council)**

- (1) Where a member of the Council falls under any of the following subparagraphs, he/she shall be excluded from mediating the relevant disputed matters:
  1. Where a member of the Council, his/her spouse or ex-spouse becomes a party to dispute of the matters of mediation of dispute, or is in the relationship of holder of mutual right or of responsible person;
  2. Where a member of the Council is, or used to be, a relative of the party to dispute of the matters of mediation of dispute;
  3. Where a member of the Council or a juristic person to which a member of the Council belongs is conducting the role of adviser or counsel on the law, management, etc.;
  4. Where a member of the Council or a juristic person to which a member of the Council belongs participates, or used to participate, in the matters of mediation of dispute as an agent of party to dispute, and has testified or attested.
- (2) When there are circumstances under which it is difficult to ensure fairness in the mediation of the Council, a party to dispute may apply for challenge of the member to the Council.
- (3) Where a member of the Council falls under the causes prescribed in paragraph (1) or (2), he/she may withdraw himself/herself from mediating the relevant disputed matters.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

#### **Article 48-6 (Application, etc. for Mediation)**

- (1) An enterpriser who suffers from loss due to an act under the suspicion of violation of [Article 23](#) (1) may apply for mediation by submitting a document (hereinafter referred to as "application for mediation of dispute") stating the matters prescribed by Presidential Decree to the Fair Trade Commission or the Council: *Provided*, That this shall not apply where it falls under any of the following subparagraphs:
  1. Where it is appropriate to handle in accordance with [Article 24](#) or [51](#) in consideration of content, characteristic, degree, etc. of the act under the suspicion of violation, which falls under the standard prescribed by Presidential Decree;
  2. The case being investigated by the Fair Trade Commission pursuant to [Article 49](#) before an application for mediation of dispute is made.
- (2) Where an application for mediation of dispute has been filed pursuant to paragraph (1), the Fair Trade Commission shall examine whether it corresponds to an act or cases in subparagraphs of the proviso to paragraph (1) and notify the Council of the result by attaching the application for mediation of dispute within the period prescribed by Presidential Decree from the date of receipt thereof.
- (3) When the Council has received an application for mediation of dispute pursuant to paragraph (1) or (2), it shall immediately notify the Fair Trade Commission or parties to the dispute of the fact, etc. of receipt, as prescribed by Presidential Decree.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

#### **Article 48-7 (Mediation, etc.)**

- (1) The Council may advise to agree with each other on their own, or may prepare a mediation proposal and suggest a mediation to parties to dispute.
- (2) When it is necessary to confirm the fact regarding matters of mediation of dispute concerned, the Council may conduct an investigation or request the parties to dispute to submit relevant data or to present themselves.
- (3) The Council shall turn down an application for mediation for an act or a case falling under the subparagraphs of the proviso to [Article 48-6](#) (1). The same shall apply to a dispute notified by the Fair Trade Commission as falling under an act or case of subparagraphs of the proviso to [Article 48-6](#) (1).
- (4) The Council shall terminate mediation procedures where it falls under any of the following subparagraphs:
  1. Where parties to dispute have accepted recommendations, mediation proposals of the Council, mediated on their own accord, etc.;
  2. Where mediation is not concluded after a lapse of 60 days from the date when an application for mediation of dispute was notified by the Fair Trade Commission;
  3. Where there is no practical use in proceeding mediation procedures when one of the parties to dispute refuses mediation, or files a lawsuit of the matters of mediation of dispute to a court, etc.
- (5) Where the Council has turned down an application for mediation or has terminated mediation procedures, it shall report the progress of mediation, reason of turning down an application for mediation or of termination of mediation procedures, etc. to the Fair Trade Commission in writing without delay, and shall notify the parties to dispute of the fact, as prescribed by Presidential Decree.
- (6) The Fair Trade Commission shall not conduct corrective measures pursuant to [Article 24](#) or give recommendations for correction pursuant to [Article 51](#) (1) to the parties to dispute concerned until mediation procedures terminate.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

#### **Article 48-8 (Preparation of Mediation Statement and Validity thereof)**

- (1) When mediation on the matters of mediation of dispute is concluded, the Council shall prepare a mediation statement in which members who have participated in the mediation and parties to dispute have put signature and seal. In such cases, it shall be deemed agreement with the same content as the mediation statement has been reached between the parties to dispute.
- (2) Where parties to dispute mediate the matters of mediation of dispute on their own accord and request for the preparation of mediation statement before mediation procedures commence, the Council may prepare the mediation statement.
- (3) Parties to dispute shall conduct matters agreed upon at mediation and submit the result of performance to the Fair Trade Commission.
- (4) Where agreement has been reached pursuant to paragraph (1) and the matters agreed upon have been conducted, the Fair Trade Commission shall not make corrective measures pursuant to [Article 24](#) and recommendations for correction pursuant to [Article 51](#) (1).

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

#### **Article 48-9 (Organization, Operation, etc. of Council)**

Matters necessary for the organization, operation, mediation procedures, etc. of the Council, other than those prescribed by [Articles 48-3](#) through [48-8](#), shall be prescribed by Presidential Decree.

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

## **CHAPTER X INVESTIGATION PROCEDURES AND OTHER RELATED MATTERS**

#### **Article 49 (Identification and Reporting of Violations)**

- (1) The Fair Trade Commission may, if it deems that a suspicion of violating the provisions of this Act exists, make a necessary investigation *ex officio*. <Amended by Act No. 6371, Jan. 16, 2001>
- (2) Any person may, if he/she recognizes the existence of a fact violating the provisions of this Act, report such fact to the Fair Trade Commission.
- (3) In cases of an investigation under paragraph (1) or (2), the Fair Trade Commission shall give notice, in writing, to the parties concerned, with regard to the results of the investigation (including the details of measures, if corrective measures, etc. are intended to be taken as a result of investigation). <Newly Inserted by Act No. 5335, Dec. 30, 1996>
- (4) If five years have passed since an act of violating the provisions of this Act was committed, the Fair Trade Commission shall not make orders for corrective measures or impose any penalty surcharge as prescribed by this Act, against such violation: *Provided*, That the foregoing shall not apply where the corrective measures or the imposition of penalty surcharge are cancelled by a judgment of court, and where a new disposition is made under the relevant reasons for judgment. <Newly Inserted by Act No. 4790, Dec. 22, 1994; Act No. 5335, Dec. 30, 1996; Act No. 6371, Jan. 16, 2001>

#### **Article 50 (Investigation, etc. of Violations)**

- (1) The Fair Trade Commission may, if deemed necessary for the enforcement of this Act, take the following measures, as prescribed by Presidential Decree:
  1. Summons of the parties concerned, interested parties, or witnesses to a hearing and seeking their opinions;
  2. Designation of an appraiser and entrustment of appraisal;
  3. Issuance of an order to an enterpriser, an enterprisers' organization, an executive or employee thereof for the report on the cost and business situation or for the presentation of other necessary materials or things, or detention of presented materials or things.
- (2) The Fair Trade Commission may, where deemed necessary for the enforcement of this Act, have a public official under its control (including those under the control of an agency as entrusted under [Article 65](#)) access the office or place of business of enterprisers or their organizations in order to examine the business and management situation, account books, documents, electronic materials, voice-recording materials, video materials and other materials or things prescribed by Presidential Decree, and hear statements from the parties concerned, interested parties or witnesses at a designated place, as prescribed by Presidential Decree. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001>
- (3) Any public official who conducts an examination under paragraph (2), may order enterprisers or their organizations or executives and employees thereof to submit materials or things necessary for such examination, or detain the materials or things submitted, as prescribed by Presidential Decree.
- (4) Any public official who conducts an examination under paragraph (2), shall produce to a party interested a certificate indicating his/her authority.
- (5) In cases where it is deemed impossible to confirm unlawful practices if not through information or data pertaining to financial transactions (hereinafter referred to as "information pertaining to financial transactions") in connection with the investigation of a person under considerable suspicion of having done an act to remove the application of [Article 9](#) (1) in violation of [Article 15](#), or where it is deemed impossible to confirm whether funds have been supported without through information or data pertaining to financial transactions in connection with the investigation of a company liable to publish its insider trading under considerable suspicion of violating [Article 23](#) (1) 7, the Fair Trade Commission may request the head of the specific branch of any financial institution to submit information pertaining to his/her branch's financial transactions by means of a document stating the following matters after undergoing a resolution thereon by a meeting provided for in [Article 37-3](#), notwithstanding [Article 4 of the Act on Real Name Financial Transactions and Confidentiality](#) and the head of the specific branch shall comply with the request: <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009>

1. Personal information of traders;
2. The term of trade subject to the request;
3. The legal basis of the request;
4. The purposes of using the information;
5. Details of information pertaining to financial transactions that is requested (limited to the information pertaining to the financial transactions involving an act evading or circumventing application of the provisions of [Article 9](#) or an illegal loaning with the financial institution of the person who is suspected of being involved in the act evading or circumventing application of the provisions of [Article 9](#) or the illegal loaning);
6. Personal information, such as names and positions of persons in charge of making the request or persons responsible for making the request in the agency.

<<Period of Validity: Dec. 31, 2010>>

- (6) The request for submitting financial transaction information referred to in paragraph (5) shall be limited to the minimum needed for the investigation. <Newly Inserted by Act No. 7315, Dec. 31, 2004>
- (7) In cases where any financial institution furnishes the Fair Trade Commission with financial transaction information pursuant to paragraph (5), the relevant financial institution shall notify in writing the relevant trader of major details of the furnished information pertaining to the financial transactions, the purpose of using the information, the person who is furnished with the information and the date on which the information is furnished within ten days from the date on which the information pertaining to the financial transactions is furnished. In such cases, the provisions of [Article 4-2 \(4\) of the Act on Real Name Financial Transactions and Confidentiality](#) shall apply *mutatis mutandis* to expenses incurred in the notification. <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>
- (8) In cases where the Fair Trade Commission requests any financial institution to furnish financial transaction information pursuant to paragraph (5), it shall enter the fact in its record book and keep the record book for three years from the date on which it requests the financial institution to furnish the financial transaction information. <Newly Inserted by Act No. 7315, Dec. 31, 2004>
- (9) Anyone who is furnished with financial transaction information pursuant to paragraph (5) shall be prohibited from furnishing any other person with it, leaking it to any other person or using it for other purposes. <Newly Inserted by Act No. 7315, Dec. 31, 2004>

#### **Article 50-2 (Prohibition on Abusing Investigation Authority)**

Public officials in charge of the investigation shall conduct their investigations within the necessary minimum limit in order to enforce this Act and they shall be prohibited from abusing their investigation authority for any other purpose, etc.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

#### **Article 50-3 (Application for Postponing Investigation, etc.)**

- (1) In cases where any enterpriser or any enterprisers' organization who or that is subjected to a disposition or an investigation by the Fair Trade Commission pursuant to [Article 50](#) (1) through (3) is difficult to implement such disposition or undergo the investigation on the grounds of natural disaster or other grounds prescribed by Presidential Decree, the enterpriser or the enterprisers' organization may apply the Fair Trade Commission to postpone implementing such disposition and conducting such investigation, as prescribed by Presidential Decree.
- (2) The Fair Trade Commission shall, when it receives an application for postponing the disposition and investigation under paragraph (1), examine the grounds of such application and if the grounds thereof are recognized as being reasonable, it may postpone the disposition and the investigation.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

#### **Article 51 (Recommendation for Correction of Violation)**

- (1) If a violation of this Act has occurred, the Fair Trade Commission may determine a scheme for correction and recommend that the enterpriser or enterprisers' organization



concerned comply with it.

- (2) Any person who has been recommended under paragraph (1), shall notify the Fair Trade Commission within ten days of receipt of the notice of recommendation for correction, as to whether or not he/she accepts the recommendation. <Amended by Act No. 5335, Dec. 30, 1996>
- (3) If a person, upon receipt of a recommendation for correction under paragraph (1), accepts the recommendation, it shall be considered that an order to take corrective measures has been issued under this Act. <Amended by Act No. 5335, Dec. 30, 1996>

#### **Article 52 (Opportunity of Furnishing Explanations)**

- (1) The Fair Trade Commission shall, before issuing to take corrective measures or levying a penalty surcharge in response to violations of this Act, provide the parties concerned or interested parties with the opportunity to furnish explanations.
- (2) The parties concerned or interested parties may attend meetings of the Fair Trade Commission to furnish explanations or present necessary materials.

#### **Article 52-2 (Request for Access to Data)**

Any party concerned or interested person may request the Fair Trade Commission to have access to or make a copy of data relating to the measures taken under this Act. In such cases, the Fair Trade Commission shall comply with such request, if deemed necessary for the public interest or a consent is granted by the person providing such data.

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

#### **Article 53 (Appeal)**

- (1) Any party dissatisfied with any measures taken by the Fair Trade Commission pursuant to this Act, may file an appeal stating the grounds therefor with the Fair Trade Commission within 30 days from the receipt of a notification of the said measures. <Amended by Act No. 5813, Feb. 5, 1999>
- (2) The Fair Trade Commission shall make a decision with respect to an appeal under paragraph (1) within 60 days: *Provided*, That where it is unable to make a decision within such period due to extenuating circumstances, the period may be extended by up to 30 days. <Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999>

#### **Article 53-2 (Suspension of Enforcement of Orders for Corrective Measures)**

- (1) Where an appeal under [Article 53](#) (1) has been made by a person against whom corrective measures have been taken by this Act, or where the Fair Trade Commission deems it necessary to prevent irrevocable damage or harm caused by the enforcement of such measures or the continuance of procedures, the Fair Trade Commission may, if requested by one of the parties or *ex officio*, decide whether to suspend enforcement of such measures or continuance of procedures (hereinafter referred to as "suspension of enforcement").
- (2) The Fair Trade Commission may, upon request by one of the parties, or *ex officio*, revoke a decision with the effect of suspension of enforcement, where the grounds for suspension of enforcement no longer exist after the decision of suspension of enforcement has been made. <Amended by Act No. 5813, Feb. 5, 1999>

[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 53-3 (Service of Documents)**

- (1) The provisions of [Articles 14 through 16 of the Administrative Procedures Act](#) shall apply *mutatis mutandis* to the service of documents. <Amended by Act No. 8631, Aug. 3, 2007>
- (2) Notwithstanding the provisions of paragraph (1), any enterpriser or any enterprisers' organization that has its domicile, place of business or office (hereinafter referred to as "domicile, etc") abroad shall be asked to designate a domestic agent to whom any document shall be served. <Amended by Act No. 8631, Aug. 3, 2007>
- (3) Where any enterpriser or any enterprisers' organization that has to designate a domestic agent pursuant to paragraph (2) fails to designate a domestic agent, paragraph (1) shall apply. <Newly Inserted by Act No. 8631, Aug. 3, 2007>

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

#### **Article 54 (Institution of Lawsuit)**

- (1) Where a person intends to file a lawsuit against any measure taken by the Fair Trade Commission under this Act, he/she shall do so within 30 days from the date of receiving a notice of disposition or receiving the written decision of the Fair Trade Commission against such appeal. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001>
- (2) The period as referred to in paragraph (1) shall be a peremptory period.

#### **Article 55 (Exclusive Jurisdiction over Lawsuits for Appeal)**

The Seoul Appellate Court having jurisdiction over the seat of the Fair Trade Commission shall have exclusive jurisdiction over any lawsuits for appeal cases filed pursuant to [Article 54](#). <Amended by Act No. 5335, Dec. 30, 1996>

#### **Article 55-2 (Procedures for Dealing with Cases, etc.)**

Matters necessary for procedures in dealing with cases in violation of this Act shall be determined and announced by the Fair Trade Commission.  
[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

### **CHAPTER X-2 IMPOSITION AND COLLECTION OF PENALTY SURCHARGES, ETC.**

#### **Article 55-3 (Imposition of Penalty Surcharges)**

- (1) In imposing surcharges under this Act, the Fair Trade Commission shall take into account the following matters:
  1. The nature and degree of the unlawful practice;
  2. The duration and frequency of the unlawful practice;
  3. The amount of benefits, etc. accrued from the unlawful practice.
- (2) In cases of a merger with a company violating this Act, the Fair Trade Commission may impose a penalty surcharge on the company established or maintained through the merger, on the grounds that unlawful practices conducted by the former have been deemed conducted by the latter.
- (3) The standards for the imposition of surcharges under paragraph (1) shall be determined by Presidential Decree. <Amended by Act No. 5813, Feb. 5, 1999>  
[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 55-4 (Extension of Deadline for Payment of Penalty Surcharges and Payment in Installments)**

- (1) The Fair Trade Commission may extend the deadline for payment of penalty surcharges or allow the penalty surcharge to be paid in installments, where a person on whom the penalty surcharge has been imposed (hereinafter referred to as "person subject to payment of penalty surcharges") is considered to have difficulty in paying the penalty surcharge as a lump sum because the sum of the penalty surcharge is above the amount determined by Presidential Decree on the grounds falling under any of the following subparagraphs. In such cases, security, where necessary, may be required:
  1. In cases where substantial damage has been caused to properties because of fire, theft, etc.;
  2. In cases where business is at considerable risk because of unfavorable business conditions;
  3. In cases where a lump sum payment of the penalty surcharge is likely to bring considerable financial difficulties;
  4. In cases where there are other relevant factors deemed to fall under subparagraphs 1 through 3.
- (2) In cases of an application for the extension of the deadline for payment of penalty surcharges or for payment in installments under paragraph (1), a person subject to payment of penalty surcharge shall apply to the Fair Trade Commission within 30 days from the date of receiving a notice of payment of penalty surcharge. <Amended by Act No. 6651, Jan. 26, 2002>

- (3) Where a person subject to payment of penalty surcharge for whom the deadline for payment of penalty surcharges is extended under paragraph (1), or a penalty surcharge is allowed to be paid in installments, falls under any of the following subparagraphs, the Fair Trade Commission may revoke the decision on the extension of the deadline for payment of penalty surcharges or the payment in installments, and collect such penalty surcharge in a lump sum:
1. In cases where installments of a penalty surcharge are overdue;
  2. In cases where orders by the Fair Trade Commission with regard to the modification of or the preservation of security are not complied with;
  3. In cases where it is deemed impossible to collect all or the remaining amount of a penalty surcharge on the grounds of a forced enforcement, the commencement of an auction, a declaration of insolvency, the dissolution of a juristic person, national or local taxes in arrears.
- (4) In relation to the extension of the deadline for payment of penalty surcharges, or payment in installments pursuant to paragraphs (1) through (3), necessary matters shall be determined by Presidential Decree. *<Amended by Act No. 5813, Feb. 5, 1999>*  
*[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]*

#### **Article 55-5 (Liability to Jointly Pay Surcharges)**

- (1) Where an enterpriser which is a company on which a penalty surcharge is imposed splits or merges with any other company (including cases where the enterpriser splits or merges with any other company on the date on which the penalty surcharge is imposed), the following companies shall be liable to jointly pay the surcharge:
1. The company that splits;
  2. The company that is incorporated as a result of division and merger;
  3. Where part of the company that splits and merges with another company that survives, such another company that survives.
- (2) Where an enterpriser which is a company on which a penalty surcharge is imposed dissolves on the grounds of division and merger (including cases where the company dissolves on the date on which the penalty surcharge is imposed), the following companies shall be liable to jointly pay the surcharge:
1. The company that is incorporate as a result of division and merger;
  2. Where part of the company that splits and merges with another company that survives, such another company that survives.

*[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]*

#### **Article 55-6 (Collection of Penalty Surcharges and Disposition for Deferred Payment)**

- (1) The Fair Trade Commission shall collect an additional penalty surcharge calculated based on the interest rate determined and published by the Fair Trade Commission by taking into account the overdue interest rate of banks provided for in [Article 2 of the Banking Act](#) within the scope of 40/100 per annum for the period from the next day of the expiration of the deadline for payment of penalty surcharges to the date of payment inclusive, where the person subject to payment of penalty surcharge fails to pay the penalty surcharge within the deadline for payment. *<Amended by Act No. 5813, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 10303, May 17, 2010>*
- (2) The Fair Trade Commission may, where a person subject to payment of penalty surcharge fails to pay a penalty surcharge within the deadline for payment, give notice with the deadline for payment specified in it and, where original and additional surcharges under paragraph (1) are not paid within the deadline for payment, collect surcharges in the same manner as dispositions of national taxes in arrears.
- (3) The Fair Trade Commission may delegate to the Commissioner of the National Tax Office its affairs relating to the collection of surcharges or additional surcharges, or the procedures for surcharges in arrears under paragraphs (1) and (2).
- (4) The Fair Trade Commission may, where deemed necessary for the collection of surcharges in arrears, request the Commissioner of the National Tax Office to furnish the

information on the imposition of national taxes on persons who failed to pay the surcharges. <Newly Inserted by Act No. 6371, Jan. 16, 2001>

- (5) The public officials in charge of the affairs of surcharges may, where necessary for the collection of surcharges, request the heads of registry offices and other relevant administrative agencies to allow them to have access to required documents, or to deliver their transcripts or abstracts, without compensation. <Newly Inserted by Act No. 6371, Jan. 16, 2001>
- (6) Matters necessary for the collection of surcharges shall be determined by Presidential Decree.

[This Article Newly Inserted by Act No. 5335, Dec. 30, 1996]

#### **Article 55-7 (Additional Payment for Refund of Penalty Surcharge)**

The Fair Trade Commission shall, where it makes a refund of penalty surcharge on account of the adjudication of appeal or the ruling of court, make the additional payment of refund for the period from the date of paying the penalty surcharge to the date of refund, as prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 6371, Jan. 16, 2001]

#### **Article 55-8 (Deficit Disposal)**

- (1) Where a person liable to pay a surcharge, fine for negligence or other collection money (hereinafter referred to as "collection money, etc") pursuant to this Act has a ground falling under any of the following subparagraphs, the Fair Trade Commission may make deficit disposal:
  1. Where the amount appropriated to the amount in arrears after delinquency disposition falls short of the amount in arrears;
  2. Where negative prescription on right to collect collections, etc. has been completed;
  3. Where the delinquent is missing or it became clear that the delinquent does not own assets;
  4. Where it was confirmed that the presumed amount of total property which is the object of delinquency disposition leaves no remainder after filling up the disposition fees for arrears;
  5. Where it was confirmed that the presumed amount of total property which is the object of delinquency disposition leaves no remainder after filling up the reimbursement of national taxes, local taxes, claims, etc. which took the right to lease of a house on a deposit basis, right of pledge or mortgage as security, which have preference to collection money, etc.;
  6. Where the collection money is not likely to be collected, and falls under any ground prescribed by Presidential Decree.
- (2) When deficit disposal pursuant to paragraph (1) is intended, local administrative agencies shall be inquired of the whereabouts of the delinquent or whether the delinquent owns assets, and the result shall be confirmed.
- (3) When deficit disposal is to be made as it falls under the requirements of paragraph (1) 4 or 5, delinquency disposition shall be suspended and the seizure of property shall be revoked.
- (4) When another property which can be seized is found after deficit disposal pursuant to paragraph (1), the Fair Trade Commission shall promptly revoke the deficit disposal and make delinquency disposition: *Provided*, That this shall not apply where the case falls under paragraph (1) 2.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

## **CHAPTER XI DAMAGES**

#### **Article 56 (Liability for Damages)**

- (1) If an enterpriser or an enterprisers' organization violates the provisions of this Act, and thereby gives a person any damage, he/she or it shall be liable for compensation of such

damage to the person: *Provided*, That the same shall not apply where the enterpriser or the enterprisers' organization verifies that he/she or it violates the provisions of this Act without any deliberation or any negligence. <Amended by Act No. 7315, Dec. 31, 2004>  
(2) Deleted. <by Act No. 7315, Dec. 31, 2004>

#### **Article 56-2 (Transmission of Records)**

Where a lawsuit for liability for damages is instituted under [Article 56](#), the court may request the Fair Trade Commission to transmit the records of the particular case (including protocols and stenographic records of examination of persons concerned, references or expert witnesses, or all judicial evidence).

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

#### **Article 57 (Recognition of Damages Amount)**

Where it is recognized that damage is caused by the act of violating the provisions of this Act, but it is extremely difficult to verify the fact that is necessary to determine the amount of such damage in light of the character of the fact, the court may recognize a reasonable amount of damage based on the gist of entire arguments and the outcome of investigating evidence.

[This Article Wholly Amended by Act No. 7315, Dec. 31, 2004]

## **CHAPTER XII EXEMPTIONS**

#### **Article 58 (Lawful Acts Conducted Pursuant to Acts and Subordinate Statutes)**

This Act shall not apply to lawful acts of an enterpriser or an enterprisers' organization conducted in accordance with other Acts and orders issued under such Acts.

#### **Article 59 (Exercise of Right to Intangible Property)**

This Act shall not apply to any act which is deemed the justifiable exercise of the right under the [Copyright Act](#), the [Patent Act](#), the [Utility Model Act](#), the [Design Protection Act](#) or the [Trademark Act](#). <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007>

#### **Article 60 (Acts of Specified Associations)**

This Act shall not apply to any acts of an association established by satisfying the following requirements (including a federation of associations): *Provided*, That this shall not apply to unfair trade practices or price hikes by restricting unfairly competition: <Amended by Act No. 5813, Feb. 5, 1999>

1. It shall aim at mutual aid among small-sized enterprisers or consumers;
2. It shall be established voluntarily, and its members may enter and withdraw voluntarily;
3. Each member shall have an equal voting right;
4. Where profits are distributed to members, the limit thereof shall be determined by the articles of incorporation.

**Article 61** Deleted. <by Act No. 5335, Dec. 30, 1996>

## **CHAPTER XIII SUPPLEMENTARY PROVISIONS**

#### **Article 62 (Duty to Preserve Confidentiality)**

No commissioner, public official who performs or has performed his/her duties under this Act, or no one in the Council who is, or used to be, in charge of mediation of dispute shall divulge any confidential information of an enterpriser or an enterprisers' organization which he/she has learned in the course of carrying out his/her duties, or use it for the purpose, other than to enforce this Act. <Amended by Act No. 8631, Aug. 3, 2007>

#### **Article 63 (Consultation on Enactment of Acts and Subordinate Statutes which Restrain Competition)**

- (1) The head of the competent administrative agency shall seek prior consultation with the Fair Trade Commission, where he/she wishes to propose legislation or an amendment of

enactments containing anti-competitive factors, such as the restrictions on the fixing of prices or the terms of transaction, entry to markets, or business practices, unfair collaborative acts, prohibited practices of an enterpriser or an enterprisers' organization, etc. and where he/she wishes to grant approval or other measures containing anti-competitive factors against an enterpriser or an enterprisers' organization.

- (2) The head of the competent administrative agency shall give advance notice to the Fair Trade Commission, where he/she intends to enact or amend any rules or regulations containing anti-competitive factors.
- (3) In cases of approval or other measures containing anti-competitive factors under paragraph (1), the head of the competent administrative agency shall give notice to the Fair Trade Commission with regard to the details of the approval concerned or other measures.
- (4) In relation to notice under paragraph (2), in cases where it is recognized that rules or regulations to be enacted or amended contain anticompetitive factors, the Fair Trade Commission may give advice to the head of the competent administrative agency as to the rectification of such anti-competitive factors. This shall also apply to Acts and subordinate statutes enacted or amended without consultation prescribed by paragraph (1), rules or regulations enacted or amended without notice, approval or other measures made without notice.

*[This Article Wholly Amended by Act No. 5335, Dec. 30, 1996]*

#### **Article 64 (Cooperation from Heads of Competent Agencies, etc.)**

- (1) If deemed necessary for the enforcement of this Act, the Fair Trade Commission may hear the opinions of the heads of competent administrative agencies, other authorities, or associations. *<Amended by Act No. 5335, Dec. 30, 1996>*
- (2) If deemed necessary for the enforcement of this Act, the Fair Trade Commission may entrust the heads of competent administrative agencies, other authorities, or associations with any necessary investigation, or request necessary materials. *<Amended by Act No. 5335, Dec. 30, 1996>*
- (3) If deemed necessary for securing fulfillment of a corrective measure under this Act, the Fair Trade Commission may request any necessary cooperation from the heads of the competent administrative agencies, other authorities, or associations. *<Amended by Act No. 5335, Dec. 30, 1996>*

#### **Article 64-2 (Payment of Reward)**

- (1) The Fair Trade Commission may pay a reward to any person who has blown the whistle on a violation under this Act or submitted evidential materials verifying such violation within budgetary limits.
- (2) Necessary matters concerning violations under this Act on which the whistle blowing is paid a reward under paragraph (1), the scope of persons who are entitled to the payment of the reward and standards and procedures, etc. for paying the reward shall be prescribed by Presidential Decree.

*[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]*

#### **Article 65 (Delegation and Entrustment of Authority)**

The Fair Trade Commission may partially delegate his/her authority as prescribed by this Act to the head of an agency under his/her control, Special Metropolitan City Mayor, Metropolitan City Mayor, or Do Governor, or entrust it to the head of another administrative agency, as prescribed by Presidential Decree. *<Amended by Act No. 5335, Dec. 30, 1996>*

#### **Article 65-2 (Legal Fiction of Public Official in Application of Penal Provisions)**

- (1) A commissioner who is not a public official from among the commissioners of the Fair Trade Commission shall be deemed a public official in the application of penal provisions pursuant to the [Criminal Act](#) or other Acts.
- (2) A person who is, or used to be, in charge of mediation of dispute pursuant to [Articles 48-3 through 48-9](#) shall be deemed a public official in the application of penal provisions pursuant to [Articles 129 through 132 of the Criminal Act](#).

*[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]*

## CHAPTER XIV PENAL PROVISIONS

### Article 66 (Penal Provisions)

- (1) A person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than three years or by a fine of not exceeding 200 million won: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009>
1. A person who has committed an abusive act in violation of [Article 3-2](#);
  2. A person who has combined enterprises in violation of the main sentence of [Article 7](#) (1);
  3. A person who has violated [Article 8-2](#) (2) through (5);
  4. A person who has established a holding company or converted a company into a holding company in violation of [Article 8-3](#);
  5. A person who has acquired or owns stocks in violation of [Article 9](#);
  6. A person who has guaranteed a debt in violation of [Article 10-2](#) (1);
  7. A person who has exercised his/her voting right in violation of [Article 11](#) or [18](#);
  8. A person who has committed an unlawful practice in violation of [Article 15](#);
  9. A person who has performed or induced an unfair collaborative act in violation of [Article 19](#) (1);
  10. A person who has conducted prohibited practices of enterprisers' organizations in violation of [Article 26](#) (1) 1.
- (2) The punishments of imprisonment and fine as referred to in paragraph (1) may be imposed concurrently.

### Article 67 (Penal Provisions)

- A person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than two years, or by a fine of not exceeding 150 million won: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 4790, Dec. 22, 1994; Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009>
1. Deleted; <by Act No. 5335, Dec. 30, 1996>
  2. A person who has committed an unfair trade practice in violation of [Article 23](#) (1);
  3. A person who has violated [Article 26](#) (1) 2 through 5;
  4. A person who has committed resale price maintenance in violation of [Article 29](#) (1);
  5. A person who has concluded an international contract in violation of [Article 32](#) (1);
  6. A person who has failed to comply with corrective measures or an order of prohibition, etc. under [Article 5](#), [16](#) (1), [21](#), [24](#), [27](#), [30](#), [31](#) or [34](#);
  7. A person who has failed to undergo an audit by a certified public accountant in violation of [Article 14](#) (5).

### Article 68 (Penal Provisions)

- A person who falls under any of the following subparagraphs shall be punished by a fine of not exceeding 100 million won: <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007>
1. A person who has failed to make a report on the establishment of or conversion into a holding company or made a false report in violation of [Article 8](#);
  2. A person who has failed to make a report on the business activities of a holding company, etc., or made a false report in violation of [Article 8-2](#) (7);
  3. A person who has failed to make a report on the status of the stockholdings or the debt guarantee or made a false report in violation of [Article 13](#) (1) and (2);
  4. A person who has refused to submit data requested under [Article 14](#) (4) without justifiable grounds or submitted false data;
  5. A person who has made a false appraisal in violation of [Article 50](#) (1) 2;

6. Deleted; <by Act No. 7315, Dec. 31, 2004>

7. Deleted; <by Act No. 4790, Dec. 22, 1994>

8. Deleted. <by Act No. 5813, Feb. 5, 1999>

[This Article Wholly Amended by Act No. 4513, Dec. 8, 1992]

#### **Article 69 (Penal Provisions)**

- (1) In spite of failing to fall under the requirements provided for in [Article 50](#) (5), anyone who has asked the head of the specific branch of any financial institution to submit information pertaining to financial transactions by abusing his/her authority or has violated paragraph (9) of the same Article shall be punished by imprisonment with prison labor for not more than five years or by a fine of not exceeding 30 million won. <Newly Inserted by Act No. 7315, Dec. 31, 2004>
- (2) Anyone who has violated [Article 62](#), shall be punished by imprisonment for not more than two years, or by a fine of not exceeding two million won. <Amended by Act No. 5335, Dec. 30, 1996>

#### **Article 69-2 (Fines for Negligence)**

- (1) An enterpriser or enterprisers' organization shall be punished by a fine for negligence of not exceeding 100 million won in cases falling under subparagraphs 1 through 6 and 8, and of not exceeding 200 million won in cases falling under subparagraph 7, and the executives, employees and other interested parties of a company or enterprisers' organization shall be punished by a fine for negligence of not exceeding ten million won in cases falling under subparagraphs 1 through 6 and 8, and of not exceeding 50 million won in cases falling under subparagraph 7: <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 9554, Mar. 25, 2009>
    1. In making a publication pursuant to [Articles 11-2 through 11-4](#), a person who has not gone through a resolution by the board of directors or has failed to make a publication, or a person who has omitted major details of such publication or made a false publication;
    2. A person who has failed to make a report on the combination of enterprises under [Article 12](#) (1) or (6) or made a false report or a person who has violated paragraph (7) of the said Article;
    3. In relation to the request for documents under [Article 14-2](#) (2), a person who has failed to submit the documents without justifiable grounds, or submitted false documents;
    4. Deleted; <by Act No. 9554, Mar. 25, 2009>
    5. A person who has failed to attend without justifiable grounds in violation of [Article 50](#) (1) 1;
    6. A person who has failed to make a report or present necessary materials or things as prescribed in [Article 50](#) (1) 3 or (3), or made a false report or who presents false materials or things;
    7. A person who has refused, interfered with or evaded the investigation as prescribed in [Article 50](#) (2);
    8. A person who has refused to submit the information pertaining to financial transactions required under [Article 50](#) (5).
  - (2) A person who has not complied with the orders for the maintenance of good order in violation of [Article 43-2](#) shall be punished by a fine for negligence of not exceeding one million won. <Newly Inserted by Act No. 5335, Dec. 30, 1996>
  - (3) Fines for negligence as referred to in paragraph (1) or (2) shall be imposed and collected by the Fair Trade Commission, as prescribed by Presidential Decree. <Amended by Act No. 5335, Dec. 30, 1996>
  - (4) through (6) Deleted. <by Act No. 9554, Mar. 25, 2009>
- [This Article Newly Inserted by Act No. 4513, Dec. 8, 1992]

#### **Article 70 (Joint Penal Provisions)**

If the representative of a juristic person (including an unincorporated organization; hereafter the same shall apply in this Article), or an agent, employee or any other person working for a



juristic person or individual has committed a violation falling under any of [Articles 66 through 68](#) with respect to duties of the said juristic person or individual, not only shall such violator be punished accordingly, but the juristic person or individual shall be punished by a fine prescribed in the relevant provisions: *Provided*, That the same shall not apply where the juristic person or individual has not neglected to exercise due diligence and supervision for the relevant duties in order to prevent such violation.

*[This Article Wholly Amended by Act No. 9554, Mar. 25, 2009]*

#### **Article 71 (Filing of Complaint)**

- (1) Any offense as prescribed in [Articles 66](#) and [67](#) shall be prosecuted by a public action only after a complaint is filed by the Fair Trade Commission. *<Amended by Act No. 5335, Dec. 30, 1996>*
- (2) The Fair Trade Commission shall file with the Prosecutor General the complaints under [Articles 66](#) and [67](#) where it is deemed that such violations may substantially hamper competition, because the degree of violations is obvious from an objective point of view and serious. *<Newly Inserted by Act No. 5335, Dec. 30, 1996>*
- (3) The Prosecutor General may notify the Fair Trade Commission of the existence of facts corresponding to prosecution requirements under paragraph (2), and may request the Fair Trade Commission to file with him/her. *<Newly Inserted by Act No. 5335, Dec. 30, 1996>*
- (4) The Fair Trade Commission may not withdraw the filing after the prosecution has commenced. *<Newly Inserted by Act No. 5335, Dec. 30, 1996>*

*[This Article Wholly Amended by Act No. 4513, Dec. 8, 1992]*

### **ADDENDA**

#### **Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 1990.

#### **Article 2 (General Transitional Measures)**

- (1) Any authorization, approval, recognition, designation, corrective measures, etc. granted or taken by the Minister of Economic Planning Board pursuant to the previous provisions as at the time this Act enters into force, shall be deemed those granted or taken by the Fair Trade Commission under this Act.
- (2) Matters reported, requested or notified to the Minister of Economic Planning Board pursuant to the previous provisions as at the time this Act enters into force, shall be deemed those reported, requested or notified to the Fair Trade Commission under this Act.
- (3) Any public announcement made by the Minister of Economic Planning Board pursuant to the previous provisions as at the time this Act enters into force, shall be deemed that made by the Fair Trade Commission under this Act.

#### **Article 3 (Transitional Measures concerning Prohibition of Mutual Contribution)**

If a company which belongs to an enterprise group is designated as a large enterprise group, and operates financial or insurance business as at the time this Act enters into force, violates [Article 9](#) (1), the provisions of the said Article shall not apply to it for one year from the date this Act enters into force.

#### **Article 4 (Transitional Measures concerning Total Amount of Contribution)**

- (1) If a company which belongs to an enterprise group is designated as a large enterprise group as at the time this Act enters into force or within two years from the date this Act enters into force, and which received a notification as prescribed in [Article 14](#) (1) at the time of designation, has made a contribution in excess of the maximum contribution amount at the time of notification, the total contribution existing on the date of notification (hereinafter referred to as "special maximum amount") shall be deemed the maximum contribution amount for two years from the date this Act enters into force in applying the provisions of [Article 10](#) (1): *Provided*, That if the maximum contribution amount exceeds the special maximum amount due to increase of the net assets value, this provision shall not be applicable, and if it is shorter than that as prescribed in [Article 14](#) (3) 2, it shall be

- one year.
- (2) The Fair Trade Commission may, if necessary, have a company for which the special maximum amount is recognized, prepare and submit a yearly plan to settle the excess of the maximum contribution amount.
  - (3) Notwithstanding the provisions of [Article 10](#) (1), if a company belonging to a large enterprise group owns on April 1, 1987 stocks of a company more than 30 percent of the total issued stocks of which is owned by the Government, local governments or government-invested institutions under the [Framework Act on the Management of Government-Invested Institutions](#), and if the Fair Trade Commission approves it, the company may own the stocks after the period as referred to in paragraph (1) has passed. In such cases, the Fair Trade Commission may separately determine the period in which the company may own such stocks.
  - (4) Notwithstanding the provisions of [Article 10](#) (1), if a company belonging to a large enterprise group owns on April 1, 1987 stocks issued by a foreign-invested enterprise under the Foreign Capital Inducement Act, and the Fair Trade Commission approves it, the company may own such stocks for up to three years after the period as referred to in paragraph (1) has passed.

#### **Article 5 Omitted.**

#### **ADDENDA <Act No. 4501, Nov. 25, 1992>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

#### **Articles 2 through 8 Omitted.**

#### **ADDENDA <Act No. 4513, Dec. 8, 1992>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 1993.

##### **Article 2 (Transitional Measures concerning Total Contribution)**

In application of the proviso to [Article 10](#) (1), the revised provisions of subparagraph 5 of the said paragraph shall apply exclusively to stocks to be acquired or owned after this Act enters into force.

##### **Article 3 (Transitional Measures concerning Debt Guarantee)**

- (1) If a company which belongs to an enterprises group is designated as a large enterprise group subject to limitations on debt guarantee as at the time this Act enters into force, or within three years after this Act enters into force, and which has received the notification as prescribed in [Article 14](#) (1), has guaranteed any debt in excess of the maximum debt guarantee amount at the time of the notification thereof, the total debt guarantee on the day the notification is made (hereinafter referred to as "special maximum debt guarantee amount") shall, in application of the provisions of [Article 10-2](#) (1), be deemed the maximum debt guarantee amount for three years after this Act enters into force: *Provided*, That this shall not apply where the maximum debt guarantee amount exceeds the special maximum debt guarantee amount due to the increase of the owner's capital.
- (2) The Fair Trade Commission may, if necessary, have a company having the special maximum debt guarantee amount recognized under paragraph (1), prepare and submit a yearly plan to solve the excess maximum debt guarantee amount through a consultation with domestic financial institutions.

#### **ADDENDA <Act No. 4790, Dec. 22, 1994>**

- (1) (Enforcement Date) This Act shall enter into force on April 1, 1995.
- (2) (Transitional Measures concerning Total Contribution) If a company which belongs to an enterprise group designated as a large enterprise group as at the time this Act enters into force, or within three years after this Act enters into force, and which has received the

notification as prescribed in [Article 14](#) (1) at the time of such designation, holds a contribution in excess of the maximum contribution at the time it receives the notification, the total contribution existing on the day it receives the notification (hereinafter referred to as "special ceiling") shall be deemed the ceiling of contribution for three years after this Act enters into force: *Provided*, That if the ceiling of contribution exceeds the special ceiling due to an increase in the net assets, this shall not apply, and if the period is shorter than that prescribed in the main sentence of [Article 14](#) (3) 2, it shall be one year.

(3) (Applicability) The revised provisions of [Article 10](#) (2) shall apply exclusively to stocks acquired or owned after this Act enters into force.

**ADDENDA <Act No. 4831, Dec. 23, 1994>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 4 Omitted.**

**ADDENDA <Act No. 5235, Dec. 30, 1996>**

(1) (Enforcement Date) This Act shall enter into force on April 1, 1997.

(2) (Transitional Measures as to Aggregate Contributions) In applying the amended provisions of [Article 10](#), where the book value of shares acquired before this Act enters into force is below the purchase price of such shares, the book value of the shares concerned shall be deemed the purchase price of the shares concerned.

(3) (Transitional Measures as to Guarantee of Liabilities) After this Act enter into force, where a member company of a large enterprise group subject to limitations on debt guarantee has provided guarantees over the maximum debt guarantee prescribed by the amended provisions of [Article 10-2](#) (1) with domestic affiliated companies as at the time this Act enters into force, the aggregate debt guarantee shall be deemed the maximum debt guarantee for the company concerned by March 31, 1998: *Provided*, That where the aggregate debt guarantee has exceeded the maximum debt guarantee for the company concerned because of an increase in the owner's equity, this paragraph shall not apply.

(4) (Transitional Measures as to Penal Provisions) The application of the penal provisions to any act committed before this Act enters into force shall be governed by the previous provisions.

**ADDENDA <Act No. 5403, Aug. 30, 1997>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Articles 2 through 8 Omitted.**

**ADDENDUM <Act No. 5454, Dec. 13, 1997>**

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

**ADDENDA <Act No. 5491, Dec. 31, 1997>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 1998.

**Articles 2 through 8 Omitted.**

**ADDENDA <Act No. 5498, Jan. 8, 1998>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 1998. (Proviso Omitted.)

**Articles 2 through 15 Omitted.**

**ADDENDA <Act No. 5503, Jan. 13, 1998>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 1998. (Proviso Omitted.)

**Articles 2 through 12 Omitted.**

**ADDENDA <Act No. 5528, Feb. 24, 1998>**

(1) (Enforcement Date) This Act shall enter into force on April 1, 1998: *Provided*, That the amended provisions of [Article 10](#) shall enter into force on the date of its promulgation.

(2) (Transitional Measures on Debt Guarantee) If the total debt guarantees for domestic affiliated companies which a company belonging to an enterprise group designated in the year 1998 as a large enterprise group subject to the limitations on debt guarantee, which was designated in the year 1997, guarantees for domestic affiliated companies at the time of its designation, exceed the limitations on debt guarantee pursuant to the previous provisions of Article 10-2 (1), the previous provisions shall apply: *Provided*, That the period exceptionally recognized pursuant to the decrease of shareholder's equity referred to in the previous provisions of Article 10-2 (4) shall not expire on or before March 31, 2000.

**ADDENDA <Act No. 5529, Feb. 28, 1998>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 7 Omitted.**

**ADDENDA <Act No. 5559, Sep. 16, 1998>**

**Article 1 (Enforcement Date)**

This Act shall enter into force two months after the date of its promulgation.

**Articles 2 through 9 Omitted.**

**ADDENDA <Act No. 5813, Feb. 5, 1999>**

(1) (Enforcement Date) This Act shall enter into force on April 1, 1999: *Provided*, That the amendments to [Article 50](#) (5), (6), (7) and (8), subparagraph 6 of [Article 68](#), [Articles 69](#) (1) and [69-2](#) (1) 7 shall enter into force on the date of its promulgation.

(2) (Validity Term) The amendments to [Article 50](#) (5), (6), (7) and (8), subparagraph 6 of [Article 68](#), [Articles 69](#) (1) and [69-2](#) (1) 7 shall remain in force for five years from the date of promulgation of this Act. *<Amended by Act No. 6371, Jan. 16, 2001>*

(3) (Transitional Measures following Expiration of Validity Term) The application of the penal provisions or fines for negligence to any act committed before the term of validity expires under paragraph (2) of this Addenda shall be governed by the previous provisions.

(4) (Transitional Measures on Penal Provisions) The application of the penal provisions to any act committed before this Act enters into force shall be governed by the previous provisions.

**ADDENDA <Act No. 5814, Feb. 5, 1999>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on July 1, 1999.

**Articles 2 (Transitional Measures concerning Corrective Measures, Surcharges, and Penal Provisions)**

The application of the corrective measures, surcharges, and penal provisions to any act committed in violation of Articles 23 (1) 6 and 26 (1) 5 of the former [Monopoly Regulation and Fair Trade Act](#) before this Act enters into force shall be governed by the previous provisions.

**Article 3 (Transitional Measures concerning Fair Competition Code)**

The fair competition code on indication and advertisement examined by the Fair Trade Commission pursuant to Article 23 (4) and (5) of the former [Monopoly Regulation and Fair](#)

[Trade Act](#) as at the time this Act enters into force shall be deemed the self-governing code on indication and advertisement examined pursuant to Article 14.

**Articles 4 and 5 Omitted.**

**ADDENDA <Act No. 5825, Feb. 8, 1999>**

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.

**Articles 2 through 10 Omitted.**

**ADDENDA <Act No. 6043, Dec. 28, 1999>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 2000: *Provided*, That the amended provisions of [Articles 10](#) and [14](#) (3) 2 shall enter into force on April 1, 2001.

**Article 2 (Special Case for Application concerning Investment for Corporate Restructuring)**

Of the amended provisions of [Article 10](#) (1) 4, where acquiring or owning stocks for the purpose of corporate restructuring, with regard to the stocks that may be acquired or owned in excess of the amount of investment limit, the provisions of the same Article, same paragraph, and same subparagraph shall also be applicable to the stocks that were acquired or owned during a period from January 1, 1998 to March 31, 2002. In such cases, in calculating the period according to the provisions of the same subparagraph, what have been acquired or owned during the period from January 1, 1998 to March 31, 2001 shall be deemed to have been acquired or owned on April 1, 2001. *<Amended by Act No. 6651, Jan. 26, 2002>*

**Article 3 (Transitional Measures concerning Total Amount of Investment)**

In applying the amended provisions of [Article 10](#) (1) to cases where a company belonging to an enterprise group designated as a large enterprise group makes investment in excess of the investment limit amount as at the time this Act enters into force, the total amount of investment made by such company as of the date this Act enters into force shall be deemed the investment limit amount for one year from the date this Act enters into force: *Provided*, That the same shall not apply where the investment limit amount exceeds an amount deemed the total amount of investment limit following an increase in the net asset value.

**Article 4 (Transitional Measures concerning Investment in Infrastructure)**

Any person who has acquired or owned, or received recognition of period extension with respect to, stocks of a company incorporated to carry on the first-class facility business as prescribed in the provisions of subparagraph 2 of Article 2 of the previous Promotion of Private Capital into Social Overhead Capital Investment Act (referring to the Act before it was amended by Act No. 5377) in accordance with the provisions of Article 10 (2) of the previous [Monopoly Regulation and Fair Trade Act](#) (referring to the Act before it was amended by Act No. 5528) before this Act enters into force shall be deemed to have acquired or owned such stocks or have received recognition of period extension under the amended provisions of [Article 10](#) (1) 3 for a period recognized by the Fair Trade Commission at the time of recognition.

**Article 5 (Transitional Measures concerning Investment Made to Attract Foreign Investment)**

Where any stocks acquired or owned to attract foreign investment before this Act enters into force fall under the amended provisions of Article 10 (1) 4, such stocks shall be deemed to have been acquired or owned on April 1, 2001.

**ADDENDA <Act No. 6371, Jan. 16, 2001>**

(1) (Enforcement Date) This Act shall enter into force on April 1, 2001: *Provided*, That the amendments to Article 2 of Addenda of the [Monopoly Regulation and Fair Trade Act](#) (Act No. 5813) shall enter into force on the date of its promulgation.

(2) (Applicability to Additional Payment for Refund of Surcharge) The amendments to [Article 55-6](#) shall be applicable from the portion of incurrence of the causes for refund for the first time after this Act enters into force.

(3) (Transitional Measures on Application of Penal Provisions) In applying the penal provisions against the activities committed before this Act enters into force, the previous provisions shall govern.

#### **ADDENDA <Act No. 6651, Jan. 26, 2002>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 2002: *Provided*, That the amended provisions of [Article 11](#), and of Article 2 of the Addenda of the amended [Monopoly Regulation and Fair Trade Act](#) (Act No. 6043) shall enter into force on the date of its promulgation.

##### **Article 2 (Period of Validity)**

Matters related to corporate restructuring in [Article 10](#) (1) 4 shall be valid by not later than March 31, 2003.

##### **Article 3 (Retroactive Application in Relation to System of Limitation on Total Amount of Investments)**

- (1) The amended provisions of [Article 10](#) shall also be applicable to the stocks acquired or owned as at the time this Act enters into force. In such cases, the stocks acquired or owned under the amended provisions of [Article 10](#) (6) 2 shall be limited to those acquired or owned after January 1, 1998.
- (2) In applying the provisions of paragraph (1), where the stocks acquired or owned as at the time this Act enters into force in order to induce foreign investments (excluding the stocks falling under Article 5 of the Addenda of the amended Act of the [Monopoly Regulation and Fair Trade Act](#) (Act No. 6043)) fall under the amended provisions of [Article 10](#) (1) 3, and were acquired or owned before March 31, 2001, they shall be deemed to have been acquired or owned on April 1, 2001.

##### **Article 4 (Retroactive Application to Enterprises Exceeding Investment Limit)**

The amended provisions of [Article 17-2](#) and subparagraph 6 of [Article 67](#) shall apply to cases where the affiliate of any enterprise group that is designated as a large enterprise group as at the time this Act enters into force acquires and holds stocks of other domestic company that holds such stocks in excess of the investment limit amount as of April 1, 2001 (in cases of the affiliate of any enterprise group that is designated as a large enterprise group in 2001, referring to the date on which the enterprise group is designated as a large enterprise group; hereafter the same shall apply in this Article) and continues to hold such stocks after the lapse of one year from April 1, 2001 and violates the provisions of the proviso to [Article 10](#) (1) by continuously holding such stocks even after the lapse of the deadline prior to which the exception of restrictions on the total investment amount is recognized pursuant to the main sentence of the same Article and the same paragraph.

*[This Article wholly Amended by Act No. 7315, Dec. 31, 2004]*

##### **Article 5 (Transitional Measures for Designation, etc. of Enterprise Group subject to Limitations on Mutual Investment)**

An enterprise group designated as a large enterprise group or that subject to limitations on debt guarantee under the previous provisions of Article 14 (1) as at the time this Act enters into force, shall be deemed to have been designated as an enterprise group subject to limitations on mutual investment, etc. under the amended provisions of [Article 14](#) (1).

##### **Article 6 (Transitional Measures for Application of Penal Provisions)**

An application of penal provisions to the acts committed before this Act enters into force shall be governed by the previous provisions.

#### **ADDENDA <Act No. 6705, Aug. 26, 2002>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 4 Omitted.

ADDENDA <Act No. 7289, Dec. 31, 2004>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 7315, Dec. 31, 2004>

**Article 1 (Enforcement Date)**

This Act shall enter into force on April 1, 2005: *Provided*, That the amended provisions of [Articles 50](#) (5) through (9), [69](#) (1) and [69-2](#) (1) 8 shall enter into force on the date of the promulgation of this Act.

**Article 2 Deleted.** <by Act No. 8382, Apr. 13, 2007>

**Article 3 (Applicability, etc. to Report on Corporate Combination)**

- (1) The corporate combination on which the obligation to report accrues pursuant to the previous provisions as at the time this Act enters into force shall be governed by the previous provisions, notwithstanding the amended provisions of [Article 12](#) (1), (2) and (5) through (7).
- (2) The amended provisions of [Article 12](#) (1) 2 shall apply to the corporate combination on which the obligation to report accrues pursuant to the previous provisions of Article 12 (1) 1 as at the time this Act enters into force even if the corporate combination falls under the amended provisions of [Article 12](#) (1) 2 after this Act enters into force.
- (3) Where the corporate combination on which no obligation to report accrues, the corporate combination falls under the amended provisions of [Article 12](#) (1) 1 and not less than one company are large-scale companies from among companies involving the corporate combination as at the time this Act enters into force, the amended provisions of [Article 12](#) (2), (5) and (7) shall apply to such case and a report on the corporate combination shall be made within 30 days from the date on which the corporate combination is performed, notwithstanding the amended provisions of paragraph (6) of the same Article.
- (4) The amended provisions of [Article 12](#) (9) shall apply, starting with the corporate combination for the examination of which an application is first filed with the Fair Trade Commission after this Act enters into force.

**Article 4 (Transitional Measures concerning Restrictions on Holding of Stocks of Domestic Companies, other than Subsidiaries of General Holding Companies)**

Where any holding company on which a report is made to the Fair Trade Commission holds stocks of any domestic company, other than its subsidiaries, in excess of 5/100 of the total number of the stocks issued as at the time this Act enters into force, the stocks of the relevant domestic company shall be brought into conformity with the amended provisions of [Article 8-2](#) (2) 3 within two years from the date this Act enters into force.

**Article 5 (Transitional Measures concerning Restrictions on Stockholding Ratio on Business-Related Second-Tier Companies of Subsidiaries of General Holding Companies)**

Where a subsidiary of any general holding company holds the stocks of its business-related second-tier company, which is reported to the Fair Trade Commission, as at the time this Act enters into force, the stocks of such business-related second-tier company shall be brought into conformity with the amended provisions of [Article 8-2](#) (3) 1 within two years from the date this Act enters into force.

**Article 6 (Transitional Measures concerning Prohibition on Investments Made by Subsidiaries of General Holding Companies in other Subsidiaries)**

Where any subsidiary of a general holding company holds stocks of another subsidiary in control of the general holding company, which is reported to the Fair Trade Commission as at the time this Act enters into force, the stocks of such subsidiary shall be brought into

conformity with the amended provisions of [Article 8-2](#) (3) 2 within two years from the date this Act enters into force.

#### **Article 7 (Transitional Measures concerning Total Investment Amount)**

- (1) The stocks acquired or held by any company pursuant to the previous provisions of Article 10 (1) 3, which belongs to the enterprise group that is designated as the enterprise group subject to the restrictions on the total investment amount as at the time this Act enters into force shall be governed by the previous provisions even if they fail to meet the requirements provided for in the amended provisions of [Article 10](#) (1) 3.
- (2) The stocks acquired or held by any company pursuant to the previous provisions of [Article 10](#) (1) 4, which belongs to the enterprise group that is designated as the enterprise group subject to the restrictions on the total investment amount as at the time this Act enters into force shall be governed by the amended provisions of [Article 10](#) (1) 4.

#### **Article 8 (Transitional Measures concerning Penalty Surcharges Imposed on Unfair Collaborative Acts)**

The application of a penalty surcharge to an act before this Act enters into force, which has been terminated after a lapse of three months after the partially amended [Monopoly Regulation and Fair Trade Act](#) (Act No. 8631) promulgates shall be governed by the previous provisions. <Amended by Act No. 8631, Aug. 3, 2007>

#### **Article 9 (Special Case of Restrictions on Voting Rights of Financial Companies or Insurance Companies)**

The number of stocks on which the voting right can be exercised from among the stocks of the domestic affiliates of a company, which are acquired or held by the company pursuant to the previous provisions of the proviso to and subparagraph 3 of [Article 11](#), which belongs to the enterprise group subject to mutual equity investment limit and runs financial business or insurance business, plus the number of stocks on which persons can exercise the voting right, with the exception of persons prescribed by Presidential Decree, from among persons who are specially related to the domestic affiliates, notwithstanding the amended provisions of subparagraph 3 of Article 11, shall not exceed 30/100 of the total number of stocks issued by the domestic affiliates by March 31, 2006, 25/100 from April 1, 2006 to March 31, 2007, 20/100 from April 1, 2007 to March 31, 2008 and 15/100 from April 1, 2008, respectively.

#### **Article 10 Omitted.**

**ADDENDA <Act No. 7386, Jan. 27, 2005>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

##### **Articles 2 through 6 Omitted.**

**ADDENDA <Act No. 7428, Mar. 31, 2005>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

##### **Articles 2 through 6 Omitted.**

**ADDENDUM <Act No. 7492, Mar. 31, 2005>**

This Act shall enter into force three months after the date of its promulgation.

**ADDENDA <Act No. 7796, Dec. 29, 2005>**

##### **Article 1 (Enforcement Date)**

This Act shall enter into force on July 1, 2006.

##### **Articles 2 through 6 Omitted.**



**ADDENDA <Act No. 8382, Apr. 13, 2007>**

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation: *Provided*, That the amended provisions of [Articles 8-2, 10](#) (1), (2) and (8), [17](#) (4), [50](#) (5) and [68](#), Article 2 of the Addenda, and Article 2 of the Addenda of the amended [Monopoly Regulation and Fair Trade Act](#) (Act No. 7315) shall enter into force on the date of its promulgation.

**Article 2 (Validity Period)**

The validity period of the amended provisions of [Article 50](#) (5) shall be until December 31, 2010.

**Article 3 (Special Example on Exemption of Designation of Enterprise Group subject to Limitations on Total Investment Amount)**

For an enterprise group to which domestic companies whose total sum of assets calculated in accordance with the amended provisions of [Article 10](#) (2) is less than ten trillion won belongs as of the designation date of the year 2007, from among enterprise groups designated as an enterprise group subject to limitations on total investment amount in accordance with [Article 14](#) (1) as at the time this Act enters into force, shall be deemed to have been exempted from the designation of an enterprise group subject to limitations on total investment amount on the promulgation date of this Act.

**Article 4 (Transitional Measures concerning Penal Provisions and Fines for Negligence)**

The act performed before this Act enters into force shall be governed by the previous penal provisions and provisions on fines for negligence.

**ADDENDA <Act No. 8387, Apr. 27, 2007>**

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 9** *Omitted.*

**ADDENDA <Act No. 8572, Aug. 3, 2007>**

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.

**Articles 2 through 5** *Omitted.*

**ADDENDA <Act No. 8631, Aug. 3, 2007>**

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation: *Provided*, That the amended provisions of [Article 50](#) (5) and Article 8 of Addenda of the amended [Monopoly Regulation and Fair Trade Act](#) (Act No. 7315) shall enter into force on the date of its promulgation, and the amended provisions of [Articles 48-3 through 48-9](#) shall enter into force six months after the date of its promulgation.

**Article 2 (Validity Period)**

The validity period of the amended provisions of [Article 50](#) (5) shall be until December 31, 2010.

**Article 3 (Applicability to Report of Combination of Enterprises)**

The amended provisions of [Articles 7](#) (4) 1 and [12](#) (1) 2 and 5 shall apply beginning with the case for which the date of report of combination of enterprises from which a reckoning is made for the first time after this Act enters into force.

**Article 4 (Transitional Measures concerning Combination of Enterprises)**

The previous provisions shall govern the combination of enterprises for which the date of report of combination of enterprises from which a reckoning is made has arrived, notwithstanding the amended provisions of [Articles 7](#) (4) 1 and [12](#) (1) 2 and 5.

**Article 5 (Transitional Measures concerning Presumption of Unjust Collaborative Acts)**

The previous provisions shall govern the presumption of unjust collaborative act for an act falling under any subparagraph of former Article 19 (1) which was completed before this Act enters into force, notwithstanding the amended provisions of [Article 19](#) (5).

**Article 6 (Transitional Measures concerning Penal Provisions and Fines for Negligence)**

The application of penal provisions and fines for negligence to an act before this Act enters into force shall be governed by the former provisions.

**Article 7 Omitted.**

**ADDENDA <Act No. 8635, Aug. 3, 2007>**

**Article 1 (Enforcement Date)**

This Act shall enter into force one and a half year after the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 44 Omitted.**

**ADDENDA <Act No. 8666, Oct. 17, 2007>**

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Applicability) The amended provisions of [Article 10](#) (1) 7 shall apply with respect to the acquisition of stocks of a company established on or after this Act enters into force, and the amended provisions of subparagraph 8 of the same paragraph shall apply with respect to the acquisition of stocks of a company relocated to an area, other than the Seoul Metropolitan Area, on or after this Act enters into force.

**ADDENDA <Act No. 8863, Feb. 29, 2008>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Articles 2 through 5 Omitted.**

**ADDENDA <Act No. 9357, Jan. 30, 2009>**

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 4 Omitted.**

**ADDENDUM <Act No. 9554, Mar. 25, 2009>**

This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of [Articles 11-4](#) and [12](#) (6) shall enter into force three months after the date of its promulgation.

**ADDENDA <Act No. 10166, Mar. 22, 2010>**

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 9 Omitted.**

**ADDENDA <Act No. 10303, May 17, 2010>**

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 10 Omitted.**

