Lessons from Korea’s Platform Competition Regulation Saga

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Why Korea? (A possible subheading: Why, Why not, Chase the EU?)

Why Look at Korea?

- Korea initially sought to follow the EU’s platform regulatory model (beyond its competition enforcement practices), but ultimately abandoned the effort.
- This policy reversal offers a valuable reference point amid the global push for platform regulation.

Why Korea? (A possible subheading: Why, Why not, Chase the EU?)

Key questions:

- Why did Korea try to follow the EU in the first place?
- Why did it later step back?
- What broader lessons does this hold for other jurisdictions?

Why Korea? (A possible subheading: Why, Why not, Chase the EU?)

The Story Is Not Over

- Korea’s platform regulation saga is still ongoing.
- Recent statements by the KFTC Chair show that regulatory momentum persists, even amid growing pressure and tension with the United States.

Business > Companies

Online platform law doesn't 'target' US tech firms, antitrust chief says

By Park Jae-hyuk
Published Jan 9, 2026 10:03 am KST | Updated Jan 9, 2026 2:07 pm KST

FTC chair supports bigger fine on Coupang despite backlash from Washington

Fair Trade Commission (FTC) Chairman Ju Biung-ghi, left, responds to lawmakers during a hearing on Coupang at the National Assembly in Seoul, Dec. 30, 2025. On his right is former Coupang CEO Park Dae-jun. Yonhap

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FEDERAL

USTR cancels South Korea trade meeting over digital regulation push

The annual meeting would have been the first since the U.S. and South Korea updated their trade framework.

BY: ARI HAWKINS, PHELIM KINE, DANIEL DESROCHERS | 12/17/2025 07:26 PM EST

U.S. Trade Representative Jamieson Greer speaks during a joint media conference during the EU Trade Ministers meeting at the European Council building in Brussels, Nov. 24, 2025.| Omar Havana/AP

The Office of the U.S. Trade Representative has canceled an annual meeting with South Korean officials over Seoul's pursuit of digital proposals that the Trump administration views as discriminatory, according to three people briefed on the plans.

The closed-door meeting of the KORUS Joint Committee, a bilateral body established under the 2012 U.S.-South Korea free-trade agreement, was scheduled for Thursday. It was the first gathering of the committee since the two countries updated their trade deal that lowered U.S. duties on South Korean goods to 15 percent in exchange for investment commitments and a promise not to pursue digital regulations that disadvantage U.S. companies.

But “the Administration believes Korea is not adhering to their digital commitments among other priorities,” according to one of the people, who were all granted anonymity to candidly discuss the matter.

Why Korea? (A possible subheading: Why, Why not, Chase the EU?)

THE CHOSUN Daily

English > World

Exclusive: U.S. House Warns South Korea's Law Discriminates Against U.S. Tech

Report Mandates USTR to Assess Impact on U.S. Tech, Foreign Policy as Law Favors Chinese Competitors

By Kim Eun-joong

Updated 2026.01.07. 09:23

Republican Tom Cole, House Appropriations Committee Chairman. /Reuters-News1

The U.S. House Appropriations Committee's budget bill report, released on the 5th, revealed concerns that South Korea's proposed online platform law "discriminates against U.S. Big Tech companies and could benefit competitors based in China." It also mandated that the U.S. Trade Representative (USTR) report to the committee within 60 days of the law's enactment on its negative impacts on U.S. "foreign policy interests." ...

The committee disclosed the "FY 2026 budget bill for the Department of Commerce, Justice, and Science (CJS) and related agencies." The official document, House Report (H. Rept. 119-272), stated: "The committee is concerned that South Korea's proposed online platform law, which targets U.S. tech firms, could advantage competitors in China." It added that if enacted, the USTR must report to the committee on measures to address the law's negative effects on U.S. tech companies and foreign policy interests. The appropriations bill, which allocates FY 2026 budgets to federal agencies, is expected to pass after House-Senate reconciliation. ...

Why Korea? (A possible subheading: Why, Why not, Chase the EU?)

This raises further questions:

- Are the social and political costs of repeated regulatory pushes justified?
- Where did things go wrong—and what implications for other jurisdictions?

Why Korea? (A possible subheading: Why, Why not, Chase the EU?)

A Preview of Conclusion

- Competition law travels; Regulation does not.
  - Unlike competition law enforcement,

    adopting competition regulation following other jurisdictions requires far greater caution.
  - Regulatory models from other jurisdictions cannot be transplanted wholesale.
  - Careful attention must be paid to local market conditions and institutional context.

BEFORE WE BEGIN…

Before We Begin

Some Conceptual Backgrounds and Theoretical Frameworks

- Competition Law Enforcement vs. Regulation
  - Competition Law Enforcement
    - It is premised on the assumption that market competition generally works; it’s efficient.
    - Intervention occurs when competition is (likely to be) impaired, and it is:
      - Ex post
      - Case-by-case
      - Effects-based
    - Core tools include
      - Prohibitions on abuse of dominance
      - Prohibitions on anticompetitive agreements
      - Merger control (Historically rooted in the prohibition of unilateral conduct (eg abuse of dominance, monopolization); it has evolved into an *ex-ante* tool)

Before We Begin

- Regulation
  - Economic regulation starts from a different premise:
    - That competition may not function well in certain sectors, and/or that policy goals justify more prescriptive rules.
  - It involves:
    - Ex ante
    - Sector-wide intervention
    - Rule-based (often bright-line) obligations
    - Regulation applies broadly to the targeted sector (or a class of firms), rather than to specific conduct on a case-by-case basis.
- One-line comparison (at the risk of oversimplification)
  - Competition law keeps markets working;
  - Regulation constrains them in part.

Before We Begin

- Competition Law Enforcement ≠ Economic Regulation

US DOJ Assistant Attorney General Gail Slater's [Statement (Sep 18, 2025)]

"Winning the Race in Artificial Intelligence Through Real Competition."

SPEECH

Assistant Attorney General Gail Slater Delivers Keynote at Fordham Competition Law Institute's 52nd Annual Conference on International Antitrust Law and Policy

Thursday, September 18, 2025

Before We Begin

- Competition Law Enforcement vs. Economic Regulation

"Third, antitrust enforcement is a targeted tool suited for emerging fields like AI. In this regard, I like to compare the sledgehammer of regulation to the scalpel of antitrust. Premature regulation can be particularly harmful in incipient industries at the early stages of development because it imposes broad, ex ante rules, and these rules have the effect of limiting the direction of innovation across the entire industry. From a competition standpoint, regulations can further entrench incumbent players, because only those incumbents can afford to pay the costs of compliance. In fact, many powerful monopolists and incumbents lobby for regulations that raise barriers to entry and that ultimately harm market entrants and small businesses.

By contrast, antitrust is law enforcement. It only intervenes ex post, in response to where illegal conduct has taken place, and it targets only specific conduct by specific bad actors on a case-by-case basis, rather than applying a one-size-fits-all approach to an entire industry. Such targeted enforcement strikes the right balance in emerging fields by fine-tuning the competitive conditions to make sure that the incentives are aligned for innovation to flourish. And if done correctly, timely, limited antitrust intervention can stave off the need." (Slater)

Before We Begin

- Digital Competition Regulation
    - a form of sector-specific regulation that blends competition principles with prescriptive provisions (Lazar Radic et al. 2024)
    - Specifically, it is characterized as a designation system (based on quantitative and/or qualitative criteria) and specific ex ante rules imposed only on designated companies.
    - E.g., EU’s DMA, Japan’s Smartphone Act (MSCA), or the UK’s DMCCA…

* **NOTE**: I’m not discussing non-competition regulations, such as, in the context of Korea, fake/manipulated information regulations (the "anti-fake news" amendment), network usage fees (charges on OTT/content providers), and map data export restrictions (data localization rules) under the Information and Communications Network Act… These measures have also been the subject of U.S. opposition and external pressure.

Before We Begin

- When Is Competition Regulation Justified? (Normatively)
  - 1st Market Mechanism
    - First, allow market competition to address the problem. As long as competitive mechanisms function, intervention should be restrained.
  - 2nd Competition Law Enforcement
    - If market mechanisms fail—due to, such as, monopoly or dominance, exclusionary conduct, collusion, or anticompetitive mergers—competition law is enforced.
  - 3rd (Competition) Regulation
    - When both the market and competition law fail,
sector-specific and targeted regulation may be normatively justified.
    - Narrowly tailored, and ideally temporary.

Before We Begin

- Why Follow This Sequence?
  - 1st Market Mechanism → 2nd Competition Enforcement → 3rd Regulation
  - To promote consumer welfare, innovation by firms, and allocative efficiency.
  - To preserve institutional and operational efficiency.

“It may also be justified on grounds of institutional and operational efficiency. Arguably, substantive overlaps between dependence-centred rules incorporated into competition law and other sectoral regulations risk generating regulatory confusion, institutional inefficiencies, and duplicative proceedings, including the risk of double jeopardy, as well as the wasteful allocation of enforcement and regulation resources. Businesses may face disproportionate burdens, as they are required to navigate a complex legislative landscape that may unduly constrain legitimate contractual autonomy and deter innovation.” (Lee, forthcoming)

Before We Begin

- When, How, Why Do Policies Change (Why Are Regulations Introduced)?
    - What are the real drivers—beyond the official narrative?
        - Examples:

          Public Interest Theory; Kingdon’s Multiple Streams Framework (problem+policy+politics):

          Public Choice Theory (self-interest); Sabatier's Advocacy Coalition Framework:

          Krasner's Punctuated Equilibrium Theory; Kuran & Sunstein Availability Cascades Theory;

          DiMaggio & Powell **Institutional Isomorphism** Theory …

Before We Begin

- 3 Mechanisms of Isomorphism (DiMaggio & Powell):
  - Coercive isomorphism
    - “Coercive isomorphism results from both formal and informal pressures exerted on organizations by other organizations upon which they are dependent and by cultural expectations in the society within which organizations function.”
    - E.g., Manufacturers adopting new pollution control techs to conform to environmental regulations (p.150).

Before We Begin

- **Mimetic isomorphism**
  - "Uncertainty is also a powerful force that encourages imitation. When organizational technologies are poorly understood, when goals are ambiguous, or when the environment creates symbolic uncertainty, organizations may model themselves on other organizations. The advantages of mimetic behavior in the economy of human action are considerable; when an organization faces a problem with ambiguous causes or unclear solutions, problemistic search* may yield a viable solution with little expense."
    (* problem-driven, ad hoc, reactive, and situational search)
  - E.g., Japan's modernization in the late 19th century, modelling new governmental initiatives on apparently successful Western prototypes (p.151).

Before We Begin

- Normative isomorphism
  - "A third source of isomorphic organizational change is normative and stems primarily from professionalization … the collective struggle of members of an occupation to define the conditions and methods of their work, to control 'the production of producers,' and to establish a cognitive base and legitimation for their occupational autonomy."
  - E.g., Managers and key staff educated at the same universities and hired through similar filters (e.g., Fortune 500 board members) "tend to view problems in a similar fashion, see the same policies, procedures, and structures as normatively sanctioned and legitimate, and approach decisions in much the same way." (p.153)

Before We Begin

- What Does It Take for Regulation to Work?
  - Especially in democratic societies
  - Regulations that restrict business autonomy require more than legal, economic justification.

    * particularly those **constraining competitive conduct**, not protecting safety, health, etc.
  - Beyond the substantive merits of the regulation itself,

    a robust ex ante **consensus-building process** is essential
  - Stakeholders must understand the content of the regulation, and

    a shared sense of legitimacy must be established.
  - Otherwise, strong **political and social resistance** is likely;

    (even after adoption) regulatory **compliance will remain low**.

What Happened in Korea? What Implications From it?

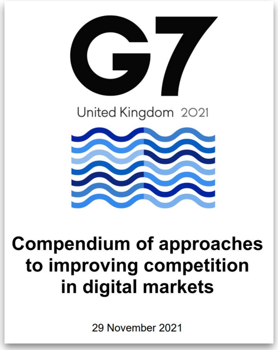
First, Regarding Competition **Enforcement** Against Platforms

Second, Regarding Platform **Regulation** Initiatives

RE: ENFORCEMENT

Competition Enforcement Against Platforms

- Global backdrop (mid–late 2010s onward)
  - A worldwide trend toward stronger enforcement against large digital platforms emerged.
  - The European Commission, under Vestager leadership, led this shift.
  - In the US, the “New Brandeis” movement also fueled calls for stronger antitrust enforcement.
  - These enforcement narratives circulated and gained traction through OECD, G7, and ICN …



Competition Enforcement Against Platforms

- Korea's Enforcement Trajectory
  - Korea also moved toward more active platform enforcement. For example:
    - **Self-preferencing**: enforc. against search platform (Naver, 2020), taxi-hailing platform (Kakao T, 2023, 2024) , e-commerce (Coupang, 2024) …
    - **MFNs**: enforc. against food delivery platforms (Delivery Hero, 2020; On-going cases) …
    - **Killer acquisitions**: eg introducing transaction value threshold (2021)
    - **Multi-homing restrictions**: enforc. against eg app store operator Google (2023) …
    - Vigilance on the **in-app payment / platform billing** issue (30% cut) …
    - Platform Guidelines (2023) …

* Also see https://www.slideshare.net/slideshow/japan-and-korea-s-competition-law-kyushu-university-jun-2025/281352805

Competition Enforcement Against Platforms

- Flagship example: self-preferencing (NAVER)
    - Self-preferencing is a natural feature of business strategy (firms are not charities).
    - Still, the Commission sanctioned Google's self-preferencing in *Google Shopping* (2017), focusing largely on Google's entrenched market dominance itself (my inference).
    - Inspired by this, KFTC also sanctioned *NAVER* (2020) for self-preferencing.

Competition Enforcement Against Platforms

Truth on the Market

Korea's NAVER Shopping: A Misguided Replica of the EU's Google Shopping Decision?

By: Sangyun Lee
October 28, 2025

CITE THIS ARTICLE

The Supreme Court of Korea's Oct. 16 decision in the long-awaited *NAVER Shopping* case delivered a resounding defeat for the Korea Fair Trade Commission (KFTC). In finding that NAVER—a local search-based platform that competes with Google in Korea

Further Context

First, regarding the search bias issue, it is notable that the KFTC has a demonstrated pattern of following the EU's actions against Google. In 2013, the enforcer opened investigations into local platforms NAVER and Daum, which were resolved in 2014 by consent decisions. These followed the European Commission's commitment discussions with Google in 2013 and 2014.

The KFTC subsequently sanctioned NAVER in October 2020 for self-preferencing (the decision was formally dated Jan. 27, 2021), which followed the Commission's June 2017 Google Shopping decision. That the KFTC's action was influenced by the EU's case is rather evident from both its press conference transcript and the enforcer's decision itself.

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But while the KFTC sought to replicate the European Commission's approach, the underlying market realities were not themselves comparable. For example, the Commission found (see, e.g., T-612/17, paras 182-183) that Google held a deeply entrenched—almost "superdominant"—position in the general search market in the EU. By contrast, the KFTC's decision made clear (No. 2021-027, paras 251 and 267) that NAVER—with around 70% market share—still faced competitive pressure in both Korea's general search market (from Daum and Google) and the nation's comparison-shopping market (from Daum, Danawa, and Enuri).

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Moreover, from a dynamic perspective, the current market situation casts doubt even on the KFTC assessment that NAVER was dominant, although not superdominant. In the Korean general search market, NAVER has lost a substantial portion of its share (around 30%) to Google since the mid-2010s. Also, unlike the KFTC's market definition, which treated comparison shopping as an independent market, it is now more widely recognized that NAVER competes with Coupang, often dubbed the "Amazon of Korea."

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Third, it is also noteworthy that, in Korea, there was always doubt as to the soundness of "self-preferencing" as a theory of harm. Prior to the Commission's 2017 Google Shopping decision, there had been broad consensus among Korean competition-law scholars that "self-preferencing" was typically a manifestation of competition on the merits, rather than an unlawful restriction of competition, except where the self-preferencing amounted to tying or an abusive refusal to deal.

Indeed, at that time, the U.S. Federal Trade Commission's (FTC) 2013 closure of its investigation of Google's self-preferencing (under Section 5 of the FTC Act) was cited favorably in Korean scholarship. As I understand it, this broad consensus also reflected the local market conditions described above. While the post–Google Shopping debate appears to have taken on a more nuanced tone amid the government's push for platform regulation (e.g., Kim 2024), it is noteworthy that the self-preferencing doctrine itself has still not been widely endorsed as an independent theory of harm in Korea. …

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Reflections and Broader Implications

… As discussed, the Korean NAVER Shopping case differed from Google Shopping in its market realities and the academic landscape. NAVER's market position, the effects of its conduct, the causal link between the two, and the academic support for treating self-preferencing as an independent theory of harm were all far less robust. The KFTC's decision to nonetheless press ahead with the case appears, if anything, to have been driven by a prior determination to create a Korean self-preferencing case—and by an effort to fit the ill-suited facts to that predetermined conclusion.

Competition Enforcement Against Platforms


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It is fortunate that the Supreme Court's decision ultimately corrected, albeit belatedly, the misguided isomorphic push for self-preferencing. ....

Of course, drawing on established competition governance models elsewhere is by no means inherently undesirable. Generally speaking, it may enable faster policy design by reducing learning costs and minimizing trial and error. It also offers advantages in promoting the international interoperability of institutions—both regulatory measures and enforcement practices—by aligning domestic systems with global norms, thereby reducing transaction costs, and facilitating cross-border coordination.

As noted earlier, however, a closer look reveals that it was actually the Supreme Court of Korea, rather than the KFTC, that effectively and successfully internalized the virtues of the European Court of Justice's Google Shopping judgment in Korea—embracing the conclusion that self-preferencing is not inherently anticompetitive, and reaffirming that it is the enforcer's obligation to prove a causal link and all constituent elements of an infringement to the requisite legal standard.

Competition Enforcement Against Platforms

- Takeaways from Korea's Experience
    - In the area of digital competition law enforcement,

      Korea shows mimicry—following EU approaches, even where local conditions differed.
    - Importantly, however, the negative consequences were limited, because:
        - competition law enforcement in Korea continues to operate within:
            - a market-based, effects-based framework, and
            - a system of judicial review (that checks if enforcement adheres to that framework).
            - an illustrative example: *NAVER* (2025)
    - The potential downsides of policy mimicry in competition law **enforcement** are **limited**
        - due to its effects-based framework and judicial review. (see next slide)

Competition Enforcement Against Platforms

- A Broader Conclusion on Competition Enforcement
  - As long as a market economy is maintained, it is both natural and desirable for competition authorities to learn from and influence one another.
  - Cross-jurisdictional learning can:
    - generate ideas,
    - improve enforcement efficiency, and
    - enable coordinated enforcement against global firms—enhancing deterrence.
  - Risks do exist:
    - when market competitive conditions are different,
    - the risk of over-enforcement arises.
  - Yet, competition law's effects-based approach, reinforced by judicial scrutiny, serves as an effective safeguard against such errors.

What Happened in Korea? What Implications From it?

First, Regarding Competition **Enforcement** Against Platforms

Second, Regarding Platform **Regulation** Initiatives

RE: REGULATION

Platform Competition Regulation Initiatives

- Korea’s efforts are best understood by dividing them into two distinct periods:
  - Period 1: 2020 – December 2024
  - Period 2: December 2024 (or 2025) – present
- A Key Observation
  - Period 1: Despite significant differences in local market conditions, Korea showed strong **mimetic isomorphism** moves to follow the EU’s platform-regulation model (P2B Reg, DMA).
    - These moves were decoupled from Korea’s actual competitive and institutional realities.
  - Period 2: **Internal momentum** to push platform regulation (after the regime change) v **External pressure** from the US (following the Trump's 2nd term)
    - On-going issue → Too early to draw any implications
    - Potential implication: an opportunity to re-examine Korea’s over-regulated framework?

Platform Competition Regulation Initiatives

- Period 1 (2020–2024): Strong EU Influence
  - Marked by a particularly strong influence from the EU.
  - Several initiatives being driven unilaterally by top-level decision-makers.
  - Largely uncritical of EU-style platform regulation.
  - A simplified timeline of Korea's (KFTC-led) initiatives:
    - 1st attempt: Online Platform Fairness Act bill (2020)
    - 2nd attempt: Platform Competition Promotion Act bill (2023)
    - 3rd attempt: Platform Competition Promotion Act bill (2024)
    - 4th attempt: MRFTA amendments bill (2024) (Dec 3, 2024, martial law incident occurred)

For comparison:

- EU P2B Regulation (Application: Jul 2020);
- EU DMA (Adoption: Sep 2022, Application: May 2023, Compliance: Mar 2024)

Platform Competition Regulation Initiatives

- 1st Attempt: Online Platform Fairness Act bill
  - Timeline in detail (under Moon’s presidency)
    - 2020. 06. 25: Legislative initiative announced
    - 2020. 09. 28: Draft bill published, with a public consultation period until Nov 9
    - 2021. 01. 26: Revised bill approved by the Cabinet
    - 2022. 03. 09: Presidential election → administration change; the bill repealed

Platform Competition Regulation Initiatives

- 1st Attempt: Online Platform Fairness Act bill
  - Why it failed?
    - Public opposition: Public awareness was limited to the ongoing project for Platform Guidelines since May 25, 2020;
    - Scepticism about new regulatory rules, given the broad scope of the MRFTA (Korea's competition law), such as unfair trading practices (including ASBP)
    - Risk of expansion: Regulations with "fairness" in their titles tend to become stricter over time through amendments → It frightened stakeholders.
    - Lack of internal coordination: Inter-agency conflict: A Power struggle emerged due to poor coordination, particularly with the KCC, which later proposed its own bill on Dec 11, 2020.
    - After delays, it was repealed following the Presidential election.

Platform Competition Regulation Initiatives

- 1st Attempt: Online Platform Fairness Act bill
  - KCC's interception
    - The KCC pursued its own bill and acquired its own regulatory power, the App Store Act (i.e., Telecommunications Business Act, Article 50(1)(9)-(11)), which was passed by the National Assembly in Aug 2021. → Anyhow, good for citizens?
    - Yet, the law, excluding the KFTC's enforcement authority, has never been enforced due to the KCC's inexperience in addressing competition issues, particularly vis-à-vis global firms.
    - The KCC's inaction is important as it created a regulatory vacuum, later leading to the public's anger against the government's inaction.

Platform Competition Regulation Initiatives

- 2nd and 3rd Attempts: Platform Competition Promotion Act bill(s)
  - Timeline in detail (under Yoon's presidency)
    - 2022. 10. 15: Kakao, a locally dominant chat app, experienced an outage crisis. (+ growing frustration with the 'self-regulation' approach and the failure of the App Store Act)
    - 2023. 11. 01: The President publicly denounced Kakao's taxi-hailing service fee policy, labelling it as "immoral" and "predatory"; he pledged to intervene.
    - 2023. 12. 19: Then-Chair of the KFTC announced the agency's plan to propose the 'Platform Competition Promotion Act' (It took only 1 month).
    - 2024. 02. 07: The KFTC paused the release of the bill (first failure).
    - 2024. 05. 16: The KFTC Chair announced that he would re-initiate the legislative process.
    - 2024. 09. 09: The KFTC announced a new plan to amend the MRFTA, instead of introducing new legislation (second failure).

(From mid-2022 to mid-2023: A period of **self-regulation experiments** under Yoon's administration; the Platform Guidelines were adopted in Jan 2022. Partly **influenced by the US**, the proposed congressional antitrust legislative package soon faced growing criticism, lost momentum, and eventually faded.)

Platform Competition Regulation Initiatives

- 2nd and 3rd Attempts: Platform Competition Promotion Act bill(s)
  - Why it failed?
    - Lack of coherence: The KFTC's internal task force (run from Jan to Jun 2023) did not explicitly endorse endorse such a further legislative action.
    - NARS's opposition: On Feb 5, 2024, the National Assembly Research Service published a report opposing it (emphasizing the effectiveness of competition enforcement and expressing concerns that regulation could hinder innovation).
    - SME's opposition: In 2023-2024, the Korea Startup Forum, Korea Venture Business Association, and other organizations expressed opposition (for over-regulation concerns);
      - Meanwhile, some SME associations, civil society organizations, and then-opposition political parties pressured for legislation.
    - US's (informal) pressure: On Jan 29, 2024, the US Chamber of Commerce opposed the bill.
    - Transparency issue: The bill's full text was never disclosed to the public.

Platform Competition Regulation Initiatives

- 4th attempt: MRFTA amendments
  - Timeline in detail (under Yoon's presidency)
    - 2024. 09. 09: The KFTC announced a new plan to amend the MRFTA. Instead of introducing ex ante regulation, the KFTC decided to pursue the incorporation of presumptions into the law.
    - 2024. 10. 28: The ruling party, in cooperation with the government, submitted a revised amendment bill, adjusting the applicable scope.
    - 2024. 12. 03: Martial law incident occurred, and the bill eventually faded.

Platform Competition Regulation Initiatives

- 4th attempt: MRFTA amendments
  - Why it failed?
    - The bill received mixed reactions— while some viewed it as a reasonable compromise, others still considered it unnecessary.
    - The main reason for its failure was political environment rapidly changed, in which platform issues fell off the policy agenda.

Platform Competition Regulation Initiatives

- Period 1’s Implications
  - Korea’s push for platform regulation was driven by institutional isomorphism, seeking to align with the so-called “*global regulatory trend*.”
  - However, this one-sided regulatory drive, decoupled from Korea’s own:
    - market-competition realities, and
    - institutional settings (eg unfair trading practices, KFTC’s already strong enforcement),
    - → triggered strong social resistance and ultimately collapsed internally.
  - Also, inter-agency turf battles (KFTC v KCC) emerged.
    - Recall the theory of public choice (rational choice theory)
      (eg, bureaucrats’ interest to expand their regulatory power and secure greater budgets)

Platform Competition Regulation Initiatives

- Period 1's Implications
  - Korea's isomorphic push (decoupled from its market and institutional realities)

    → produced a suboptimal outcome, such as
    - Failure to establish minimum platform transparency;
    - Failure in curbing Google and Apple's billing practices (in-app purchase mandate);
    - Incurrence of significant social costs → ending up wasting resources for nothing.

Platform Competition Regulation Initiatives

- Period 1's Implications
  - The Korean experience illustrates why mimicry is particularly risky in competition **regulation** (rather than competition enforcement, subject to effect analysis and judicial review)
    - Had the regulation been adopted,
      → likely have generated distortions of market competition and institutional inefficiencies
    - Even without adoption,
      → it consumed significant social and political energy and resources (producing nothing)
  - Broader Lessons:
    - Mimicry in regulation is costly—even when it fails.
    - Context and consensus-building approach matter, more than speed or blind adherence to 'global trends'.

Platform Competition Regulation Initiatives

Truth on the Market

Lessons from Korea's Roller-Coaster Ride Toward Platform (Non)Regulation

By: Sangyun Lee
September 25, 2024

CITE THIS ARTICLE

The Korea Fair Trade Commission (KFTC), the nation's competition authority, announced Sept. 9 that it had abandoned plans for comprehensive platform regulation modeled after the European Union's Digital Markets Act (DMA) or Section 19a of Germany's Competition Act.

KFTC's First Regulatory Initiative in 2020

… What explains such a sudden push in 2020? It seems likely that the urgency stemmed from top-level policymakers who may have been overly influenced by the EU's legislative moves, including the platform-to-business (P2B) regulation, as well as ongoing discussions around the EU's Digital Services Act (DSA) and New Competition Tool. In addition, Japan's partial incorporation of the EU's P2B regulation through its Act on Improving Transparency and Fairness of Digital Platforms may have further motivated such a swift, reflexive approach without much reflection. Indeed, these foreign regulatory moves were explicitly referenced in the KFTC's June 2020 press release. …

Platform Competition Regulation Initiatives


Truth on the Market

Lessons from Korea's Roller-Coaster Ride Toward Platform (Non)Regulation

By: Sangyun Lee
September 25, 2024

CITE THIS ARTICLE

The Korea Fair Trade Commission (KFTC), the nation's competition authority, announced Sept. 9 that it had abandoned plans for comprehensive platform regulation modeled after the European Union's Digital Markets Act (DMA) or Section 19a of Germany's Competition Act.

KFTC's Legislative Failure and KCC's Intervention

… While the rationale for granting the KCC exclusive authority over app-store regulation remains unclear, one thing was certain: regulatory power had fallen into the wrong hands. The KCC lacked either the experience to address competition issues or the capacity to engage with global companies. This was most evident in the KCC's first—and only—attempt to sanction a global company, Facebook—specifically, over a network-usage-fee dispute in 2018. The KCC lost at every stage of the legal process (for reference, first instance, second instance, and Supreme Court). Given this context, it's no surprise that, since the app-store regulation came into effect in 2021, the KCC has made no enforcement decision against Google or Apple, likely due to fears of losing appeals …

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Reviving the Push for Platform Regulation in 2023

… In my view, several factors contributed to this reversal. Internationally, the DMA was finally enacted in mid-2022 and was set to apply as of May 2, 2023. I believe the application of the DMA particularly energized proponents of platform regulation, prompting them to press lawmakers into action. …

… A pivotal moment came in November 2023. President Yoon took the opportunity at an event to harshly criticize KakaoT—a dominant taxi-hailing app run by Kakao—for its fee policies toward taxi companies. Labeling the platform's practices "immoral" and "predatory," he pledged government intervention. Barely a month later, the KFTC announced plans to introduce the (tentatively named) Platform Competition Promotion Act, explicitly citing the EU's DMA and Section 19a of Germany's Competition Act as key references …

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… Sadly, the KFTC's renewed push once again reflected a rushed, top-down unilateral approach, which lacked the benefit of a proper consensus-building process. While the agency claimed to have convened an internal task force consisting of both internal and external experts to address platform-competition issues in the first half of 2023, the task force did not endorse DMA-style regulation as a suitable model for Korea, as the KFTC's own press release implicitly acknowledged. …

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Lessons from Korea's Experience

… Regulating platforms is not, in itself, a global trend, let alone a standard. While some influential jurisdictions like the EU may lean toward a tougher regulatory approach to platforms, this should not be misconstrued as a universal mandate to vilify platform businesses regardless of market context. The correct interpretation is that strict regulations, where justified, indicate the presence of market failure in that jurisdiction—such that competition enforcement alone is insufficient to restore the market mechanism. Conversely, where market mechanisms are still functioning or have been damaged, but not beyond the capacity of competition-law enforcement to remedy, regulation becomes unnecessary. I believe this is one of the most important lessons to draw from Korea's experience.

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… Even if that were the case, however, the KFTC's rushed and unilateral approach was clearly not the right path. As seen in other jurisdictions that have introduced or discussed platform regulation—such as the EU, Germany, the UK, Australia, and Japan—the release of at least one policy report would have been essential for the KFTC. Such a report could have informed the public about the competition concerns in platform markets, as well as possible responses and alternative solutions, which would allow for an informed debate and consensus-building. Without this process, it's no surprise that stakeholders reacted more strongly than necessary to the abrupt regulatory initiative. …

… Korea's experience offers two key takeaways: first, the importance of assessing whether domestic-market conditions truly require regulation, as competition law remedies may be structurally ineffective; and second, the necessity of adopting a transparent, consensus-building approach to regulatory initiatives.

Platform Competition Regulation Initiatives

- Period 2 (2025–Present): Internal momentum v External pressure (ongoing)
  - Internally: Korea experienced a rapid domestic upheaval in late 2024, incl. a regime change.
  - Externally: the emergence of Trump’s second term introduced a new geopolitical variable.

Trump walks with Lee in Gyeongju, South Korea, October 29, 2025. REUTERS/Evelyn Hockstein

Reuters

Trump says trade deal agreed with South Korea after talks with Lee - as it happened

By Kay Johnson, Tim Kelly, Kate Mayberry, Karishma Singh, Kylie MacLellan and Christina Anagnostopoulos

What's happening?

- US President Donald Trump is in South Korea
- He met President Lee Jae Myung to talk trade and security
- The two sides finalised details of their trade deal
- Trump is due to meet China's Xi Jinping Thursday
- Trump spoke to CEOs at Asia-Pacific Economic Cooperation lunch
- North Korea test-fired missiles ahead of Trump's arrival
- Trouble viewing video posts? Content depends on your cookie settings

Platform Competition Regulation Initiatives

- Internal Drive: Momentum for Platform Regulation
  - The new governing party has strongly driven platform regulation as part of its domestic political agenda (including a presidential campaign pledge).
  - Compared with Period 1, the push appears more rooted in domestic salience:
    - rising public attention, and
    - more active stakeholder engagement.
      - Taxi drivers (using ride-hailing platforms)
      - Restaurant owners / small merchants (using delivery platforms)

Platform Competition Regulation Initiatives

- Internal Drive: Momentum for Platform Regulation
  - Several new bills (two types) proposed under the new administration (Lee's presidency):
    - **Horizontal: Online Platform Monopoly Act(s)**
      - It provides for a designation procedure and
      - sets out strict prohibitions on self-preferencing, tying, preventing multi-homing, restricting data portability, and MFNs.
      - The illegality of the specified conduct may be rebutted or justified
    - **Vertical: Online Platform Intermediated Transactions Fairness Act(s)**
      - The key point of contention is whether to impose caps on intermediary commissions.
      - In addition, proposals such as granting sellers collective bargaining rights and requiring to settle payments within a shortened period, eg, 20 days, have been floated.

Platform Competition Regulation Initiatives

- Internal Drive: Momentum for Platform Regulation
    - The current ruling party prioritizes the vertical one (regarding intermediaries) over the horizontal (regarding monopolies) one.
        - Horizontal one would directly target major US platforms, such as Google and Apple.
        - Vertical one reduces such risks and allows lawmakers to protect business users, thereby securing political support.
            - Flagship bill (for now): Online Platform Intermediated Transactions Fairness Act bill (Dec 2025) (sponsored by Rep. Jung-Moon Lee)
                - Focus: vertical relationships between intermediaries and business users
                - Included: eg, transparency and contractual obligations, prohibitions on unfair trading practices (taken from MRFTA provisions), rules for collective bargaining rights of business users, obligations on timely payment settlement and protection of sales proceeds …
                - Excluded: provisions imposing price caps on platform fees (which may affect Google's app store fees).

Platform Competition Regulation Initiatives

- Internal Drive: Momentum for Platform Regulation
  - A Cautious Government Stance
    - Despite legislative momentum, the government has adopted a cautious posture, reflecting concerns about potential US pushback.
    - The KFTC has, so far, not articulated a clear position.
      (Report: https://www.khan.co.kr/article/202511280600011)

Platform Competition Regulation Initiatives

- Internal Drive: Momentum for Platform Regulation
  - Questions to Consider
    - Is competition regulation driven by internal political logic necessarily sound policy? (even setting aside issues of path dependence)
    - Is there a risk that well-organized minority groups with strong voting power are over-represented, to the detriment of consumer welfare?
    - If competition law enforcement remains active and available, is it an appropriate policy choice to push for additional ex ante competition regulation?

Platform Competition Regulation Initiatives

- Internal Drive: Momentum for Platform Regulation
  - Questions to Consider (cont'd)
    - Who stands to benefit most from premature competition regulation? (Consumers?)
      - protected stakeholder groups (e.g. taxi drivers, restaurant owners)?;
      - politicians who convert sectoral grievances into regulation?; or
      - bureaucracies that gain expanded authority and budgets?

        (less clearly observable in the Korean case, but not implausible)
    - Finally, given Korea's exceptionally high share of self-employed businesses (by OECD standards), does continuous protection of these groups risk undermining:
      - allocative efficiency, and innovation in a market economy?

Platform Competition Regulation Initiatives

- External Pressure from the US (only illustrative)
  - 2024. 9, and 2025. 5. Rep. Carol Miller introduced a bill targeting Korea's platform regulation(s), titled "the U.S.-Republic of Korea Digital Trade Enforcement Act" in 2024, and "To authorize the appropriate administrative authorities to impose certain restrictions with respect to the Republic of Korea, and for other purposes" in 2025 (H.R.3193).
  - 2025. 3. 31. USTR (Trade Representative)'s report (titled "2025 National Trade Estimate Report on Foreign Trade Barriers"); It characterized Korea's proposed platform regulations as a potential trade barrier and expressed concern over their implications (252-54).

* I have compiled relevant sources here: https://www.facebook.com/competlaw/posts/pfbid02vQcNk6kJy6ZDpdK17pxZhMitArd4mBnVzTujvDXNJDbnVZw6WAjVMcG2PJdUW841l

Platform Competition Regulation Initiatives

- External Pressure from the US
  - 2025. 7. 25. The House demanded that the Chair of the KFTC explain.
  - 2025. 8. Amid trade talks with the US, the bills were placed on the table as a agenda.
  - 2025. 8. The new KFTC Chair (then nominee) Ju's statement:
    - "The antitrust authority cannot independently proceed with the so-called Online Platform Act at a time when the U.S., which has the most influential hegemonic power, makes unprecedentedly strong trade demands to Korea" (Source: Korea Times)
  - 2025. 9. 3 It's reported that Trump's post (Aug 26) directly targeted Korea. (Source: Politico)
  - 2025. 10-11. Trump-Lee summits yield joint statements rejecting digital barriers, including platform rules and fees; deal averts some tariffs.

Platform Competition Regulation Initiatives

- External Pressure from the US

Donald J. Trump
@realDonaldTrump

As the President of the United States, I will stand up to Countries that attack our incredible American Tech Companies. Digital Taxes, Digital Services Legislation, and Digital Markets Regulations are all designed to harm, or discriminate against, American Technology. They also, outrageously, give a complete pass to China's largest Tech Companies. This must end, and end NOW! With this TRUTH, I put all Countries with Digital Taxes, Legislation, Rules, or Regulations, on notice that unless these discriminatory actions are removed, I, as President of the United States, will impose substantial additional Tariffs on that Country's Exports to the U.S.A., and institute Export restrictions on our Highly Protected Technology and Chips. America, and American Technology Companies, are neither the "piggy bank" nor the "doormat" of the World any longer. Show respect to America and our amazing Tech Companies or, consider the consequences! Thank you for your attention to this matter.
DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES OF AMERICA

8.23k ReTruths **33.5k** Likes Aug 26, 2025, 9:31 AM

POLITICO

Trump's warning on digital rules was aimed at this country

The White House is increasingly concerned that other countries will mimic Europe's laws governing large tech companies.

The White House is watching South Korea's response to pressure over its digital proposals as a test of whether Washington can dissuade other trading partners from pursuing similar rules. | Al Drago/Bloomberg

By ARI HAWKINS
09/03/2025 10:45 AM EDT

Platform Competition Regulation Initiatives

- External Pressure from the US

… The United States and the ROK commit to ensure that U.S. companies are not discriminated against and do not face unnecessary barriers in terms of laws and policies concerning digital services, including network usage fees and online platform regulations, and to facilitate cross-border transfer of data, including for location, reinsurance, and personal data. Further, the United States and the ROK will support the permanent moratorium on customs duties on electronic transmissions at the World Trade Organization. … The ROK commits to provide additional procedural fairness provisions in competition proceedings, including the recognition of attorney-client privilege …

Platform Competition Regulation Initiatives

- External Pressure from the US
  - 2025. 11. Coupang (US company, called "Amazon of Korea") data leak incident first came to light → sparked a renewed push for platform regulations, fueled by public anger against powerful platforms → This generated renewed tensions with Washington (see, Korea Herald).

The Korea Times

Business > Companies

Coupang CEO's conduct prompts regulatory authorities to vow stronger sanctions

By Lee Min-hyung

Published Dec 31, 2025 4:00 pm KST | Updated Dec 31, 2025 9:04 pm KST

Coupang executives' conduct over the company's massive data leak is provoking a strong backlash from the National Assembly and prompting regulatory authorities to gear up for any possible measures to sanction the e-commerce giant.

Since the data breach was disclosed in late November, the company's top executives, including founder Kim Bom-suk, have been criticized for avoiding actions to take responsibility and apologize to the 33.7 million affected customers.

Kim issued a belated apology on Sunday, but kept refusing to attend National Assembly hearings and instead sent the newly appointed interim CEO of Coupang Korea, Harold Rogers, in his place. In the three sessions he attended, Rogers failed to curb public anger toward the company and its executives, instead fueling discontent as participating lawmakers described his attitude as "arrogant."

Coupang interim CEO Harold Rogers answers questions from lawmakers during a National Assembly hearing in Seoul, Wednesday. Yonhap

Platform Competition Regulation Initiatives

- External Pressure from the US

POLITICOPRO

Gift article

FEDERAL

USTR cancels South Korea trade meeting over digital regulation push

The annual meeting would have been the first since the U.S. and South Korea updated their trade framework.

BY: ARI HAWKINS, PHELIM KINE, DANIEL DESROCHERS | 12/17/2025 07:26 PM EST

U.S. Trade Representative Jamieson Greer speaks during a joint media conference during the EU Trade Ministers meeting at the European Council building in Brussels, Nov. 24, 2025.| Omar Havana/AP

The Office of the U.S. Trade Representative has canceled an annual meeting with South Korean officials over Seoul's pursuit of digital proposals that the Trump administration views as discriminatory, according to three people briefed on the plans. …

But “the Administration believes Korea is not adhering to their digital commitments among other priorities,” according to one of the people, who were all granted anonymity to candidly discuss the matter.

Platform Competition Regulation Initiatives

- External Pressure from the US

The Korea Times

Business > Companies

Online platform law doesn't 'target' US tech firms, antitrust chief says

By Park Jae-hyuk

Published Jan 9, 2026 10:03 am KST | Updated Jan 9, 2026 2:07 pm KST

FTC chair supports bigger fine on Coupang despite backlash from Washington

Fair Trade Commission (FTC) Chairman Ju Biung-ghi, left, responds to lawmakers during a hearing on Coupang at the National Assembly in Seoul, Dec. 30, 2025. On his right is former Coupang CEO Park Dae-jun. Yonhap

Speaking at a dinner with reporters Thursday, Ju clarified that the proposed online platform law would serve as an ex-post regulation to correct unfair transactions involving online platform operators. Under the previous administration in 2024, Korea dropped its plan to predesignate dominant platforms, shifting its focus to regulating them after instances of misconduct.

"Not only Coupang but also Naver and several other domestic platform operators will be subject to the law, which follows the principle of nondiscrimination against foreign companies," Ju said. "It is not an ex-ante regulation that designates monopolistic operators or restricts their abuse of market dominance or practices that harm consumer interests."

Platform Competition Regulation Initiatives

- Period 2 Implications
  - What Can We Learn from the Renewed Push, Stalled by US Frictions?
  - A Counterfactual Question: What If Trump Had Not Returned?
    - Given that the ruling party’s support base includes platform business users, it is highly likely that, both the Vertical Act would have adopted.
    - The Horizontal Act, although less likely, might also have been adopted.
    - As discussed above, however, would such an outcome have served the public interest?

Platform Competition Regulation Initiatives

- Period 2 Implications
    - US pressure is less about exporting its market-oriented approach (coercive isomorphism?) more about a strategic effort to protect its global firms from EU-style regulations.
    - Yet, it may not necessarily bad for Korea.
        - (To put it extreme) U.S. pressure may even be seen as an opportunity.
        - (Contrary to how the Trump administration often frames the issue) Korea's competition-related regulation has tended to be stricter toward domestic firms.
        - Coupang as an illustrative example
            - Coupang, with online-business model, has grown rapidly, while offline retailers remained subject to strict regulations, such as the Large Retailer Act.
            - "Equal" regulation on platforms may not easy (due to US pressure); then rolling back excessive regulations applied to traditional retailers can be considered?

Platform Competition Regulation Initiatives

- Period 2 Implications
  - The same logic may apply to beyond Coupang or the distribution sector.
    - It can also be applied to other industries where regulation has distorted competitive market mechanisms.
    - Paradoxically, the platform-regulation controversy—and the resulting friction with the U.S.—points not toward more regulation, but toward deregulation.
    - To foster competition between U.S. firms and domestic firms,
      it may be more effective to lift regulatory burdens on domestic firms
    - than to extend those burdens to foreign platforms.
  - A following question would be: Is this applicable to other jurisdictions as well?

Platform Competition Regulation Initiatives

- A Final Caution
  - Policy does not always move in the direction of the public interest.
    - Politicians seeking reelection and bureaucracies seeking larger budgets can always construct appealing narratives that justify further regulation,
      regardless of whether less intrusive and less risky tools already exist.
  - Still, from an academic perspective, the lesson bears stating plainly:
    - Regulation—especially competition regulation—has consequences.
    - Because of those consequences, it must be approached with caution.
  - This lesson may not be unique to Korea.

My recent article: https://www.linkedin.com/pulse/lesson-korean-policymakers-from-recent-platform-regulation-lee-nymdc

LESSONS

What Can We Learn from Korea's Experience?

- Enforcement Travels Better Than Regulation
    - Following other jurisdictions in competition law enforcement can be sensible.
    - Because (or as long as), enforcement remains anchored in:
        - market mechanisms,
        - effects-based analysis, and context-specific assessment,
        - reinforced by judicial review.
    - Cross-jurisdictional learning in enforcement can therefore be productive and disciplined.

What Can We Learn from Korea's Experience?

- Importing regulation from other jurisdictions is fundamentally different.
  - It entails far greater and more durable side effects.
    - It risks, introducing regulation even where competitive harm is unclear, or
    - layering new rules on top of already existing institutional frameworks.
  - Even if it's needed, such regulatory isomorphic moves require:
    - much broader social and political consensus;
    - without it, strong resistance is almost inevitable.

What Can We Learn from Korea’s Experience?

- Look Beyond the Narrative
  - To assess policy choices properly, we must understand why regulation is pursued in practice, beyond the stated narrative.
    - Rhetorics, such as tipping, monopolization by MAGAF, non-discrimination …
  - In Korea’s case, reality often diverged from these narratives
    - Problems arose when policymakers sought to preserve the narrative while obscuring divergent outcomes.

What Can We Learn from Korea's Experience?

- A Final Reflection: Beyond Isomorphism
  - Apart from the isomorphism debate, recent frictions with the United States offer an additional lesson.
  - Rather than reflexively condemning U.S. pressure (which may be understandable from a civic perspective), we should also ask a harder question:
    - How can we navigate such pressure to better serve the public interest?

END