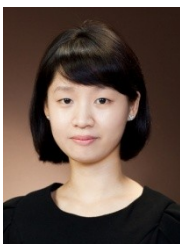



Opinions

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International Cartels and Its Implications: Evidence from Korea



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Adam Smith is often quoted for his comment on cartels, “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.” Now, Adam Smith’s devastating verdict on cartels as conspiracies against the public has become the prevailing interpretation on such arrangements. Cartels—agreements between rival businesses—generally operate in a collusive oligopoly in which producers agree among one another on the pricing of output and allocation of output markets. The most common aspect of a cartel is price-fixing. In principle, firms might wish to collude if they expect their abilities to raise prices to be only short-lived; other aspects are limiting productivity,

hoarding, and bid rigging. The Organization of the Petroleum Exporting Countries (hereinafter “OPEC”) is one of the best known examples of cartels. OPEC determines the costs for aircraft turbine fuel and other aircraft fuel essentials, which are then transferred to the airline industry.

Fighting global cartels has been a core task for competition authorities. In June 2006, several competition authorities simultaneously investigated claims that major airlines had colluded in the setting of their fuel and security surcharges. On an international level, airlines were fined for running an international air cargo cartel. Penalties imposed by competition authorities have exceeded one and a half billion U.S. dollars and several airline executives have faced jail terms. The Australian Competition and Consumer Commission (hereinafter “ACCC”) has brought several airlines to the Federal Court of Australia seeking penalties for alleged price-fixing contraventions.

The ACCC has pursued 15 airlines based in Korea, in Europe, and in the rest of Asia for price-fixing in the Australian air cargo market. To date, the Federal Court has imposed USD 58 million in penalties, including a USD 20 million penalty against Qantas, USD 5 million against British Airways, and USD 5.5 million each against Japan Airlines and Korean Air. Specifically, the ACCC claimed that between 2001 and 2006, Korean Air entered into arrangements or agreements with other international air cargo carriers that had the purpose or effect of price-fixing of a fuel surcharge, a security surcharge, and a customs fee that were applied to air cargo carried by Korean Air and other airlines. The ACCC also alleged that the arrangements or agreements were reached in Korea, Indonesia, and Hong Kong for surcharges applied to cargo originating from those countries, and for a customs fee applied to cargo originating from Indonesia.

Recent cartels have an ever more complex setup. With expanding industries, such as the information technology sector being well suited to cartels, the European Commission practices show a growing number of these unlawful groups. The empirical evidence has supported a domino effect in this area, where the European Commission first intervened in the market for DRAMs (Dynamic Random-Access Memory) in 2010, and then in those for LCDs (Liquid Crystal Displays), TV and computer monitor tubes, and CRT (Cathode Ray Tube) glass. When a technology expands, firms are tempted to collude to set prices as high as possible—as was the case for LCDs—and to prop them up when it is being phased out—as in the CRT case.

In line with this, the U.S. Department of Justice fined LG Display in 2008 for price-fixing in the TFT (Thin Film Transistor) LCD market and fined Panasonic and its subsidiary Sanyo, and LG Chem in 2013 for fixing the prices of automotive parts and laptop batteries. In 2013, Samsung Display and LG Display, the world's largest makers of flat panels, were fined a total of USD 35 million by the Chinese government for fixing prices of LCD panels that were supplied to the Chinese TV markets between 2001 and 2006. The two Korean firms along with four Taiwanese firms were penalized a total of RMB 353 million. It was the first time for any foreign firm to be punished for antitrust issues in China.

Interestingly, a few trends have emerged that attempt to prevent the actions of these cartels. According to the European Commission, leniency programs have produced a consistent lineup of satisfactory applications; on the average of four per month, including immunity applications. Regarding the international air cargo cartel, German carrier, Lufthansa, informed the authorities of illegal agreements and were granted immunity from prosecution. Another strategy to fight international cartels is international cooperation. Every competition authority knows that it needs to work with many others to discover the best practice. The international competition network can develop common standards and tools, and build a global environment of trust among competition enforcers. [KIEP](#)