



MERGER CONTROL IN KOREA Vol. 04 - KFTC clears two mergers in the semiconductor industry: SK hynix's acquisition of Intel's NAND flash and SSD businesses and AMD's acquisition of Xilinx

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On May 26, the Korea Fair Trade Commission (the "KFTC") announced that it has approved (i) SK hynix's acquisition of Intel's NAND flash and SSD businesses and (ii) AMD's acquisition of Xilinx. The KFTC found that both mergers raise low anticompetitive concerns.

SK hynix's acquisition of Intel's businesses

The KFTC found that while both companies compete in the NAND flash and SSD markets, the merger is unlikely to result in anticompetitive effects. The KFTC considered various factors in reaching the decision, including the merged entity's market shares and the existence of the market-leading rival in the relevant markets.

AMD's acquisition of Xilinx

The KFTC found that the merger raises little anticompetitive concerns because the merger parties are both U.S. companies with different core businesses and that supply semiconductors that are not in direct competition. AMD is a company that designs and sells CPUs and other computer components, while Xilinx is a company that manufactures FPGAs, which are programmable semiconductor devices. Hence, the KFTC found that the merger will not result in the exclusion of competitors or increased barriers to entry.

Significance

Generally, the KFTC publishes decisions only for cases where remedial orders are issued. Press releases on cleared merger cases such as those at hand are issued only when the proposed mergers attracted much attention from, and initially raised anticompetitive concerns among, market participants. The KFTC's press release on these two mergers itself shows the KFTC's great interest in the semiconductor industry.

The KFTC has announced that they are currently reviewing the NVIDIA-ARM merger. In particular, the KFTC has said that they will closely review to see whether there is any anticompetitive concern with the proposed merger, such as the possibility of NVIDIA achieving market monopoly through its acquisition of ARM, the No. 1 semiconductor design company. As the NVIDIA-ARM merger has generated heated debate and controversy globally, how the KFTC will eventually decide on the merger is attracting close attention in the market.

We will continue providing updates on Korean merger control issues. Please feel free to contact us anytime should you have any questions concerning Korean merger control.

Key Contacts

Young Chul Yim

Senior Counsel

+82-2-316-4629

ycyim@shinkim.com

John H. Choi

Senior Foreign Attorney / Chair of Global Cases and Investigations

+82-2-316-4232

jhchoi@shinkim.com

Sangdon Lee

Partner

+82-2-316-4638

sdlee@shinkim.com

Hyunah Kim

Senior Foreign Attorney

+82-2-316-1797

hahkim@shinkim.com