



# Korean Consumer Goods & Retail Industry Newsletter 2024\_Vol.2

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Shin & Kim's Consumer Goods & Retail PG (CGR PG) offers comprehensive legal services encompassing licensing, intellectual property (IP), taxation, labor, product liability, personal information protection, fair trade, environmental regulations, and more. Our services are tailored for companies operating in various industries, including alcohol, tobacco, food, cosmetics, fashion/luxury, and daily necessities. CGR PG periodically releases newsletters every 2-3 months, highlighting significant regulatory changes and legal issues pertinent to our clients.

## 1. Korea Fair Trade Commission's ("KFTC") legislation notice to amend the Enforcement Decree and the Enforcement Rules of the Electronic Commerce Act

The KFTC issued an advance legislation notice of draft amendments to the Enforcement Decree and the Enforcement Rules of the Act on the Consumer Protection in Electronic Commerce (the "Electronic Commerce Act") and invited public opinion between July 18 and August 27. This is in line with the amendment of the Electronic Commerce Act which will take effect on February 14, 2025, aimed at regulating online deceptive marketing schemes, commonly referred to as "dark patterns".

The Electronic Commerce Act has been amended to address the following six previously unregulated types of dark patterns. In case of violations, the business operators may be subject to corrective measures, fines, business suspensions, penalty surcharges and other sanctions. For more detailed information on these amendments, please refer to [the April 2024](#) newsletter.

### [Online dark patterns regulated under the E-Commerce Act]

- ① **Hidden renewal:** Require prior consent of the consumer when increasing the regular payment amount or converting a free service to a paid service

② **Sequential disclosure of cost:** Prohibit displaying or advertising only a partial amount rather than the total amount to be paid for purchasing goods, services, etc., without justifiable reasons.

③ **Pre-selection of specific options:** During the purchase process of a specific product or service, prohibit the act of pre-selecting an option before the consumer makes his/her choice by asking whether to purchase another product or service.

④ **False hierarchy:** Prohibit attracting consumers to buy certain items that are advantageous to business operators by making significant differences in the size, shape, color, etc. of the selected items.

⑤ **Interference with cancellation/withdrawal:** Prohibit acts that interfere with cancellation/withdrawal by consumers

⑥ **Repeated interference:** Prohibit making repeated request to change the consumer choices through pop-up windows, etc.

### (1) (Hidden renewal) The minimum notice period for the change in payment terms

In connection with obtaining consumers' consent, the proposed amendment to the Enforcement Decree further stipulates that the companies must notify the consumers ① at least thirty days in advance of any increase in periodic payment fees, and ② at least 14 days in advance of the transition to a fee-based service.

### (2) (Sequential disclosure of cost ) The method notifying the reasons why the total amount cannot be displayed or advertised

The revised Electronic Commerce Act prohibits displaying a lower price on the first search results page without a justifiable reason if the full price of a product, including all costs that consumers must pay, could have been shown. If a lower price is presented, a justifiable reason must be provided (for example, if the final price varies based on options selected by the consumer), and consumers must be informed that the final price may change. The proposed amendment to the Enforcement Decree clarifies that a lower price may be displayed on the first search results page if consumers are informed of: 1) the reason for not showing the final price, and 2) the fact that certain costs associated with purchasing the product are not displayed, and that these additional costs may vary based on the consumer's choices.

### (3) (Repeated interference) The minimum period during which repeat requests are not allowed

The revised Electronic Commerce Act prohibits companies from repeatedly notifying consumers (e.g., through pop-ups) to confirm or change choices or decisions that have already been made. However, companies may send such notices if consumers are given the option to opt out of receiving them. The proposed amendment to the Enforcement Decree specifies that consumers must have the option to decline these notices for a minimum of 7 days.

As the effective date of the revised Electronic Commerce Act approaches, the companies will have to assess their marketing methods and strategies to ensure they do not fall under the six prohibited dark patterns. It is essential for businesses to review and, if necessary, modify their display and advertising practices to comply with the proposed amendments to the Enforcement Decree and the Enforcement Rules of the Electronic Commerce Act.

## 2. KFTC's administrative notice to amend Recommendation and Guarantee Review Guidelines

The KFTC issued an administrative notice proposing amendments to the "Review Guidelines for Labeling and Advertising on Recommendations, Guarantees, etc." (the "Guidelines"), that aims to enhance the disclosure of economic interests and provide greater clarity on the meaning of economic interests. The KFTC sought the public opinion from August 20 to September 9. Specifically, the amendments require that any economic compensation received by a recommender or guarantor be clearly indicated. This requirement applies when the recommender or guarantor receives economic compensation such as cash, products, gift certificates, accumulated points, or discount benefits from an advertiser, or is directly employed by an advertiser while making recommendations, guarantees, or facilitating group purchases.

This revision of the Guidelines seeks to address issues that have emerged in the system's implementation to date. Under the current Guidelines, when recommendations or guarantees are made through text-based media, such as blogs or online forums, the economic interest disclosure must be included either at the beginning or the end of the post. However, placing the disclosure at the end can make it difficult for consumers to easily recognize, especially if the post is lengthy.

Under the current Guidelines, it is also unclear whether the economic interest must be disclosed when an influencer receives compensation based on sales performance after writing a product review that includes a purchase link, or when they receive a refund for writing a review of a product they purchased directly.

Accordingly, the revised Guidelines added the following additional provisions to ensure that consumers have a clearer understanding of the nature of economic interests:

- When making recommendations or guarantees through text-based media, an economic interest statement must be disclosed in the title or at the beginning of the post.
- The section titled "Examples of Cases Where Economic Interests Affect the Reliability of Recommendations or Guarantees" now includes recently popular social media marketing types and clarifies that economic interests apply even when compensation is received in the future or on a conditional basis.
- The section titled "Examples of Cases Where the Content is Not Clear" addresses conditional and ambiguous phrases, such as "may receive certain fees," and mandates a clear disclosure of economic interests to ensure that consumers can easily understand the information presented.

### 3. Easing licensing requirements for general liquor wholesalers and expansion of alcohol content tolerance

The government has announced measures aimed at reducing the burden on liquor manufacturers through proposed amendments to the Enforcement Decree of the Liquor License Act and the Enforcement Decree of the Liquor Tax Act. These amendments are anticipated to facilitate entry into the liquor industry for small businesses while also alleviating manufacturing burdens for existing liquor producers (the Ministry of Economy and Finance Announced 2024 Tax Law Amendment).

Enforcement Decree of the Liquor License Act
The requirement for the minimum surface area of warehouses for the general liquor wholesales business license has been eased from <b>66m<sup>2</sup> or more</b> to <b>22m<sup>2</sup> or more</b> .
Enforcement Decree of the Liquor Tax Act
The tolerance for alcohol content in fermented liquor produced by small-scale and traditional liquor manufacturers, which qualify for a reduced tax rate, has been increased.  [Allows <b>±0.5 percent</b> of the indicated alcohol content → Allow <b>-0.5 ~ +1.0 percent</b> of the indicated alcohol content]
The scope of liquors and the allowable volume loss for cask-aged liquor have both been expanded.  Scope of liquors: [ <b>Whisky, Brandy</b> → <b>All alcohol beverages</b> ] Scope of allowable volume loss: [ <b>2%</b> → <b>4% per year</b> ]

### 4. The Ministry of Economy and Finance submitted an amendment bill to simplify customs clearance procedures for e-commerce goods

In response to the growing trend of overseas direct purchases and the use of international purchasing agency platforms, the Korea Customs Service has been implementing a special customs clearance system for overseas e-commerce products since around 2005, guided by the Notice on Special Customs Clearance of E-commerce Products (the “Special Customs Clearance Notice”). The implementation of the system has streamlined the customs process by simplifying import declarations and product inspections. In 2014, the range of items eligible for the special customs clearance was significantly expanded.

On August 29, 2024, the Ministry of Economy and Finance submitted an amendment bill to the National Assembly to the Customs Act. The proposed amendment will establish a domestic and international e-commerce business registration system, which will prioritize registered businesses that provide transaction information to the Korea Customs Service in advance of importation for expedited customs clearance. Accordingly, the relevant business operators need to continue

to monitor the amendment process of the Customs Act.

- (i) Mail order distributors, (ii) mail order brokers, and (iii) persons who receive e-commerce goods overseas and act as delivery agents on behalf of consignees must register with the Commissioner of the Korea Customs Service or the head of a customs office in order to qualify for special customs clearance for e-commerce goods.
- Registered e-commerce businesses can benefit from priority special customs clearance by providing transaction information to the Korea Customs Service in advance of importation.
- The amendment bill clearly specifies the registration validity period of 3 years, along with the criteria for the cancellation of the registration provided in the Special Customs Clearance Notice.

## 5. New nutrition labeling and high-caffeine labeling requirements

The Ministry of Food and Drug Safety (MFDS) has issued a legislative notice regarding proposed amendments to the Enforcement Rules of the Act on Labeling and Advertising of Foods. This amendment aims to mandate nutritional labeling for almost all processed foods and invited public feedback from August 8 to September 19, 2024. The proposed amendments are designed to enhance the availability of nutritional information for consumers, with the goal of promoting healthier dietary choices among the public.

Currently, 182 types of processed food products are mandated to carry nutrition labels. However, with the implementation of the proposed Enforcement Rules, nutrition labeling will become compulsory for all processed foods, with the exception of 30 categories that either lack significant nutritional value or present technical challenges for labeling. The introduction of the nutrition labeling obligation will occur in two phases between 2026 and 2028, based on the sales volume of the business operator.

The proposed amendment to the Enforcement Rules also broadens the scope of products requiring high caffeine content labeling. The MFDS will extend the high caffeine labeling requirement—previously applicable only to liquid foods—to solid foods containing guarana, specifically those that have more than 0.15 mg of caffeine per gram. Products subject to this mandatory labeling must clearly display the following information on the main display panel: 1) “Contains high caffeine,” 2) “Total caffeine content: 000 mg” or “Caffeine content per serving: 000 mg,” and 3) “Children, pregnant women, and those sensitive to caffeine should be cautious when consuming.”

Manufacturers, processors, distributors, and importers of food products need to confirm whether they will be subject to the new nutrition labeling and high-caffeine labeling requirements when the proposed amendments are enforced and be prepared to comply with the new requirements.

[\[Korean version\]](#) 소비자 · 유통업 뉴스레터 2024\_Vol.2

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