



Regulating Big Tech Platforms : Main issues in the US

ABSTRACT

Recently, regulations against the big tech platforms are tightening in South Korea in the aspects of business regulations and antitrust regulations. In the US, the Biden administration and the congress are putting efforts to tame the excessive power of Big Tech as there are concerns that their dominance undermines economic and political liberties. With regards to these concerns, it is required to have an extensive study on the effects of their dominance on the society and take necessary measures to curb their excessive influence.

1. Two aspects to Big Tech platform regulations

The big tech platforms have been expanding to diverse sectors such as e-commerce, finance and mobility and they have established substantial influence on those markets. Recently, the FSC(Financial Services Commission) announced an authentic interpretation that the big tech companies providing the financial product comparison services should get the license pertaining to the relevant law and regulations . The FTC(Fair Trade Commission,) is also set to toughen the regulations on the big tech platforms. The 「the Fair Online Platform Intermediary Transactions Act」 has been proposed.

Regulations on the big tech platforms can be classified into (i) regulations on the license and business conduct ('business regulations') and (ii) regulations on the competitive behavior and market concentration ('antitrust regulations'). The issues on the business regulations are whether the licensing and the business conduct



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regulations required in specific industries(such as finance and transportation) are also applied to the big tech platforms. On the other hand, the antitrust regulations concern market concentration, abuse of market power and unfair trade practice. While the business regulations are about the contents and the characteristics of the services provided, the antitrust regulations are mostly on the market power of the platform. However, both regulations share the main goal of consumer protection in common.

〈Table 1〉 Business Regulations VS Antitrust Regulations

Category	Regulatory Body	Object of Regulations	Current Issues	Regulatory Objectives
Business Regulations	FSC(finance), MOLIT ¹⁾ (mobility)	License & business conduct	Authentic interpretation (financial product comparison services)	Sound development of relevant industry & consumer protection
Antitrust Regulations	FTC	Market concentration, abuse of market power & unfair trade practice	Proposed draft bills (Platform regulations, banning In-app purchase)	

Note: 1) Ministry of Land, Infrastructure and Transport

2. Current issues and progress of Big Tech regulations in the US

In the US, there are growing concerns that excessive market dominance of Big Tech may threaten not only economic freedom but also political and social liberties. The US House of Representatives published a report on the antitrust issues around Big Tech on October, 2020. That report points out that a few Big Tech platforms have caused harms to (i) innovation and entrepreneurship (ii) consumer privacy (iii) the quality of journalism(diverse opinion and free speech) (iv) political and social liberties. The Biden administration appointed Lina Khan(see attachment 1.), a prominent critic of Big Tech, to head the Federal Trade Commission and Khan's FTC has launched antitrust lawsuits against Google and Facebook. In addition, the



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president Joe Biden issued an executive order on 「Promoting Competition in the American Economy」 enforcing comprehensive government project to address the Big Tech monopoly issues. Also, the US House of Representatives introduced a package of bills, including 4 bills on antitrust regulation and 1 bill on increasing budget for antitrust enforcement.

The laws and regulations on Big Tech in the US consider not only business and antitrust regulations but also consumer privacy, data protection and political and social liberties. This reflects the concerns that the Big Tech monopoly may have adverse effects on consumer welfare, individual freedom and rights and even political and social system of the country(see attachment 2.).

3. Concluding Remarks

As the dominance of the big tech platforms is expected to further expand, a review on the current laws and regulations in both business and antitrust aspects in terms of the applicability to the platform companies is necessary. In addition, it is important to conduct an extensive study on the effects of the dominance of the big tech platform on the Korean politics, economy and society and take necessary measures to upcoming change.

Hyuna Hwang, Research Fellow
hahwang@kiri.or.kr

1. Lina Khan & New Brandeis School

The New Brandeis School, represented by Lina Khan, argues that antitrust regulation should consider various political and social aims as well as consumer welfare. The idea owes its intellectual origins to Supreme Court Justice Louis Brandeis (1856~1941) who emphasized the importance of power decentralization.

In practice and academia, consumer welfare has been the core purpose of antitrust regulation. Lina Khan published 'Amazon's Antitrust Paradox' in 2017, arguing that consumer welfare standards are so narrow that more diverse criteria should be considered for antitrust regulation. That is, antitrust regulation should consider not only the welfare of 'consumers' but also the interests of 'workers, producers, companies, and citizens'. From this point of view, Amazon has contributed to providing consumers with goods at lower prices, but it is nevertheless necessary to undergo more stringent antitrust scrutiny.

As Lina Khan, a vocal advocate of such a position, became the FTC chair, it is expected that the US antitrust regulations on Big Tech would be strengthened in the future.

2. Big Tech's Data Monopoly

There is concerns that Big Tech's monopoly on data may concentrate not only economic power but also political and social power to Big Tech. Harvard University professor Shoshana Zuboff pointed out that an era of surveillance capitalism may come in her book, "The Age of Surveillance Capitalism". Surveillance capitalism is similar to the totalitarianism, but in which Big Tech rather than the state, is at the center of the power. She said common digital devices such as PCs, smartphones, IoT, and autonomous vehicles, became data collecting tools and convert human experience into data. As a result, individuals and corporations might be dependent upon and manipulated by Big Tech.

Data is the most powerful tool of Big Tech along with the platform. Due to the lock-in effect caused by the preemption of data by major Big Tech and the self-reinforcing feature of data, It is difficult to expect that competition and power dispersion by the emergence of new IT companies. In order to prevent data lock-in effect, EU has introduced the concept of 'data portability', and the concept is also recognized in South Korea. However, at the moment, the industrial aspect of 'My Data' is more emphasized than deterring Big Tech's data monopoly.