

A Study on the Equity of Regulation in Advertising

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광고에 있어 규제의 형평성에 관한 연구

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Abstract This study attempts to examine the equity of regulation in advertising. After scrutinizing asymmetric regulation in advertising, this study propose measures to increase the equity of advertising regulation. This study proposed horizontal regulation and unification of regulatory agencies as direction of increasing the equity of regulation in advertising. In order to ensure the equity of advertising regulation in the new types of media that appear in various ways, horizontal regulation that decides advertising regulation policy based on the nature of contents or service is desirable. To increase the equity of regulation in advertising, it is recommended that the advertising regulatory system be operated with integrated regulatory organization.

Key Words : Equity of regulation, Advertising, Asymmetric regulation, Horizontal regulation, Unification of regulatory agencies

요 약 본 연구는 광고에서 규제의 형평성에 대한 심층적 연구이다. 본 연구는 광고의 비대칭 규제에 대해 면밀히 살펴본 후 광고 규제의 형평성을 높이는 방안을 제안한다. 연구결과로 규제의 형평성을 높이는 방법으로 수평적 규제와 규제 기관의 통합을 제안한다. 다양한 형태로 등장하는 새로운 형태의 매체에 대한 광고 규제의 형평성을 보장하기 위해서는 내용이 나 서비스의 성격에 따라 광고 규제 정책을 결정하는 수평적 규제가 바람직하다. 또한 광고에서 규제의 형평성을 강화하기 위해서는 통합적 광고 규제 기구에 의해 규제 시스템이 운용되는 것이 바람직하다. 새로운 기술의 출현과 방송통신융합에 따라 새로운 형태의 광고가 등장하고 성장하는 오늘날의 광고 환경에서 광고 규제의 형평성은 개별 광고뿐만 아니라 전체 광고 산업의 지속적 성장을 위해서도 필요하다.

주제어 : 규제형평성, 광고, 비대칭 규제, 수평적 규제, 규제기구의 통합

1. Introduction

Advertising plays an important role in the economy of today by providing product or service information to consumers and enabling mass production and mass consumption. However, unattended advertising can cause discomfort to consumers and hinder fair competition in the market. In order to prevent the

adverse effects of such advertising, there is a need to regulate the advertising.

One of the important objectives of advertising regulation is ensuring fair competition. In other words, consumers can be protected through fair competition, and regulation can be rationalized to develop the whole industry through competition based on fair rules. Therefore, in today's rapidly changing media

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environment, the equity of media regulation becomes an important issue and advertising is no exception. In particular, the emergence of new media in accordance with changes in the media environment, the equity of regulation among media ads becomes more important.

The rapid development of information and communication technology is leading to a wave of convergence in technology, consumer demand, market, and policy as a whole. In particular, the digital convergence environment in accordance with the digital technology revolution enables to provide a convergence service of broadcasting and telecommunication having both broadcasting and telecommunication characteristics such as IPTV, interactive data broadcasting, internet broadcasting, DMB, and VOD. This means that broadcasting and telecommunication exist somewhere in each boundary area, and now they are in an environment where it is difficult to define simply 'broadcasting' or 'communication'[1-3].

As the convergence of broadcasting and telecommunication becomes common, the issue of equality of regulation among media advertising becomes more important. The equity of advertising regulation between media is becoming an important issue, as media which have the characteristics of broadcast and telecommunication at the same time appear and similar contents are delivered from different media. Specifically, different application standards and frameworks for different media, such as advertising formation and operation (restriction of time, frequency, method), advertising sales method, and media commission rate are controversial in the broadcasting and telecommunication convergence environment. In new advertising environment, if the equity of regulation is not ensured, the growth of advertising industry will be hard to accomplished.

In this context, this study attempts to examine the equity of regulation in advertising. This study will look at the phenomenon of asymmetric regulation in the new advertising environment. Based on these analyzes, this study will propose measures to increase the equity of

advertising regulation.

2. Asymmetric Regulation in New Advertising Environment

Since the development of the media, existing regulatory system for media have in fact applied different regulatory principles and regulatory approaches to each media. As with the case of media, different advertising regulatory systems are applied to each media. However, this vertical regulation has led to the problem of asymmetric regulation in advertising regulation.

Pool says that in the United States, print media, communication media, and broadcast media have different regulatory principles and regulatory policies, which they call a trifurcated communications system[4]. Some Scholars have been critical of this trifurcated communications system[5-7]. Among them Krattenmaker and Powell Jr. are the most critical scholars in regard to this 'trifurcated communication system'. They argue that the grounds for discriminatory regulation of print media and broadcasting media have been developed and used as a logic to justify the broadcasting licensing system[8]. However, these grounds have received much criticism and argue that at least today, where media is converging, can no longer be justified.

Since the establishment of the modern law, media has been regulated by the so - called trifurcated communications system. This trifurcated communications system divides the existing media into print media, broadcasting media, and telecommunication media, and has regulated the formal regulation and contents regulation of differently. However, the development of information and communication technologies and the emergence of new media such as the Internet have raised many questions about the validity of the trifurcated communications system, which is a traditional regulatory model for media. In other words,

with the existing three-part regulatory system, it is impossible to effectively deal with the convergence of media and new media emerging[6].

The traditional regulatory system is characterized by the vertical separation and application of each network and platform-based industry sector by matching specific networks, terminals and services. In this way, there was no problem in distinguishing between advertisements based on broadcasting and telecommunication. However, as the convergence of broadcasting and telecommunication progresses, there is a problem of application of regulation on different kinds of services transmitted in the same network, along with the problem of application of regulation on the same service transmitted in different networks. Specifically, the distinction between Internet advertising and broadcasting advertising becomes ambiguous, and the regulatory issue becomes complicated accordingly. Regulation in terms of vertical separation according to these networks and platforms leads to asymmetrical regulation problems of advertising today.

Kim and Cha argue that terrestrial broadcasters, general cable broadcasters, and satellite broadcasters under the Broadcast Act are subject to various content regulation and regulation of data broadcasting, but IPTV operators that offer the same services are subject to IPTV special law which is more relaxed than current broadcasting laws. And they argue that this system may cause asymmetric regulation and argue that asymmetric regulation may arise because the IPTV special law applies to services that are more relaxed than current broadcasting laws. As a result, data broadcasting operators who are subject to different regulations for platform operators are subject to different regulations even if they supply same service[9].

This equity problem of regulation occurs even when PPL which the commercial message is included in the contents is activated. As the media becomes diverse, the same content is often transmitted through different media. For example, in movies, PPL is practiced almost indefinitely. Problem occurs when the movie is shown

in TV which PPL regulation is rigorous. In addition, as the international distribution of broadcasting programs has become active, viewers are exposed to PPL of international brands through programs from the US and other countries where PPL regulations are loose. In this case, there is also a question of what level of regulation should be regulated [10].

3. Direction of Increasing the Equity of Regulation in Advertising

3.1 Horizontal Regulation

In order to appropriately accommodate changes in the market environment in which broadcasting and telecommunication convergence is occurring, the advertising regulatory framework should be changed appropriately in accordance with the evolving direction of networks and services. In the past, the regulatory framework for broadcasting and telecommunication was diverged by broadcasting and telecommunication, and individual businesses belonging to the respective fields of broadcasting and telecommunication had regulatory systems for each business, that is, vertical regulatory systems. Vertical regulation that classifies by business and applies customized regulation according to each business is effective in technical environment where service classification by network is clear, and is suitable for environment where market conditions and competition conditions are different[11].

However, in today's convergence environment of broadcasting and telecommunication, where technology changes rapidly and new convergence services arise, the vertical regulatory system may become a problem. In a rapidly changing environment, vertical regulation could be difficult in maintaining the technical neutrality without differentiating a specific service and ensuring consistency of similar service regulation. It is the horizontal regulation that prevents the problems that may arise from the existing vertical regulatory system and emerges as a concept to solve the equality

of advertising regulation in the era of broadcasting and telecommunication convergence. Horizontal regulation is the key concept of horizontally dividing broadcasting and telecommunication area into carriage and contents layer and separating carriage and contents regulation. In other words, it is essential to adopt the same regulation for each layer by introducing the division of transmission and content layer instead of division of broadcasting and telecommunication[12].

According to scholars asserting horizontal model, such as Sicker and Mindel, vertical regulatory models make interconnection difficult[13]. Also Werbach, who advocates a horizontal model, points out the problems of this vertical model as four types, and basically argues that the problem of the vertical model does not reflect the convergence between networks. First, the vertical model assumes that there is a clear boundary between individual services, but in a convergent environment, network-based service classification is meaningless for a long time. Second, most of the services in the converged network belong to more than two industries, so it is difficult to apply consistent regulation. Third, although the services on the converged network need to be interconnected, vertical regulation could not give answer about this. And fourth, it does not reflect the structural changes of the network due to the regulation view that parallelly categorizes services, networks, and consumers vertically tied[14].

3.2 Unification of Regulatory Agencies

To increase the equity of regulation in advertising in the new advertising environment, it is recommended that the advertising regulatory system be operated with integrated regulatory organization. Indeed, many countries currently operate such an integrated regulatory framework. The reasons for the integrated regulatory system operation in the new advertising environment are as follows. First, in the convergence environment of broadcasting and telecommunication, the regulation equity can be achieved by unifying the

regulatory organization. In the big picture of the current convergence of broadcasting and telecommunication, it is necessary to develop and operate an integrated regulatory organization in order to operate the equitable regulatory system while maintaining the organic linkage and consistency between the media. Also an integrated regulatory framework system can improve the efficiency of deliberation and regulation. Regulating of advertising on each media individually is difficult to achieve the purpose of deliberation. and it is also duplicative and unrealistic in media environment in which new media are born from the convergence of broadcasting and telecommunication[15].

Second, it can be problematic that there is no active participation of advertisers and advertising agencies, which are the subject of the production of the advertisement. In order for the consumer to complain about the advertisement in question or the opinions of the government regulatory body to be reflected in the advertisement, active participation of advertiser and advertising agency is needed. In addition, active participation of advertising industry is needed in order to prevent and improve problematic advertising on the aspect of whole advertising industry. In other words, through the active participation of the advertising industry, it will be possible to obtain the effect through the preventive activities rather than the suppression related to the advertising regulation. In addition, it is also necessary for smooth communication between advertising industry and government regulatory bodies or social organizations in relation to advertisement review.

Third, the integrated advertising review mechanism is needed to reflect the opinions of consumers, and to increase consumer's trust in advertising. The precondition for the existence of a self-regulatory organization is that autonomous organizations do not exist only for advertising agencies or advertisers, but are committed to protecting consumers. And this is one of the main clues that self-regulatory bodies give

strong trust to the government, media companies, advertisers, advertising agencies and consumers. However, it is difficult to get the expected effect if the advertising industry to listen to the opinions of the consumers about the advertisement does not participate in the self-review. In addition, in order to cope with increasing consumer complaints about advertising in the broadcasting and telecommunication convergence environment where the number of media is greatly increased, a unified self-review mechanism in which the advertising industry participates is required. It is also necessary to involve consumers in the integrated deliberative body. Considering that advertising are targeted to consumers and evaluated by consumers, advertising deliberation by consumers can be a device for guaranteeing fairness and objectivity.

4. Conclusion

This study examined the equity of regulation in advertising. First, this study analyzed and understood the phenomenon of asymmetric regulation in the new advertising environment. Based on these analyzes, this study proposed measures to increase the equity of advertising regulation.

Since the development of the media, existing regulatory system for media have in fact applied different regulatory principles and regulatory approaches to each media. As with the case of media, different advertising regulatory systems are applied to each media. However, this vertical regulation has led to the problem of asymmetric regulation in advertising regulation. The traditional regulatory system is characterized by the vertical separation and application of each network and platform-based industry sector by matching specific networks, terminals and services. However, as the convergence of broadcasting and telecommunication progresses, there is a problem of application of regulation on different kinds of services transmitted in the same network, along with the

problem of application of regulation on the same service transmitted in different networks. Specifically, the distinction between Internet advertising and broadcasting advertising becomes ambiguous, and the regulatory issue becomes complicated accordingly. Regulation in terms of vertical separation according to these networks and platforms leads to asymmetrical regulation problems of advertising today.

This study proposed horizontal regulation and unification of regulatory agencies as direction of increasing the equity of regulation in advertising. In order to ensure the equity of advertising regulation in the new types of media that appear in various ways, horizontal regulation that decides advertising regulation policy based on the nature of contents or service is desirable. Horizontal regulation could be improved regulation system, because this system promotes competition among similar services through consistency of regulation among similar services, and because this system maintains neutrality without differentiating specific services in the rapidly changing media environment.

To increase the equity of regulation in advertising in the new advertising environment, it is recommended that the advertising regulatory system be operated with integrated regulatory organization. In current convergence environment of broadcasting and telecommunication, it is necessary to develop and operate an integrated regulatory organization in order to operate the equitable advertising regulatory system while maintaining the organic linkage and consistency between the media. Also an integrated regulatory framework system can improve the efficiency of deliberation and regulation.

The goal of establishing various systems and policies in society is to promote the development of the relevant field through fair competition. Currently, convergence of broadcasting and telecommunication is rapidly taking place due to the development of various information technologies. However, the system and regulations related thereto are not keeping up with the development of technology. As technology and society

change, the related policies and system must be continuously improved in accordance with the changes. Advertising regulation is no exception. In the broadcasting and telecommunication convergence environment study and research about advertising policy and regulation direction which are suitable for new environment should be continued for consumers to enjoy the new services provided from the new media environment and for advertising industry to be developed through a fair competition. In particular, as new advertising is appeared, the form of advertising becomes diversified, more attention should be paid to the equity of advertising regulation. This will contribute the growth of advertising industry in marketing aspect.

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