

Key Points of the Act on Improving Transparency and Fairness of Digital Platforms

(establishment: May 27, 2020; promulgation: June 3, 2020, enforcement: February 1, 2021)

Basic philosophy

- The Act stipulates that the government should secure **the minimally-necessary commitments from and enforce regulations** on digital platform providers, **on the basis that such providers must take voluntary and proactive efforts toward improving the transparency and fairness of their digital platforms** (this adopts a “co-regulation” approach that stipulates the general framework under laws and leaves details to businesses’ voluntary efforts).

Targets subject to the regulations

- The Act **designates** digital platform providers whose transparency and fairness must be significantly improved in particular compared to other digital platforms as “**specified digital platform providers**” and it makes such providers **subject to specific regulations**.

Roles that specified digital platform providers should play

- The Act requires specified platform providers to **disclose terms and conditions of trading and other information, develop procedures and systems in a voluntary manner and submit a report every fiscal year** on the overview of measures and businesses that they have conducted, **to which self-assessment results are attached**.

Note: The Act requires such providers to **send a prior notification of changes in terms and conditions, etc.** to users and to **voluntarily develop systems for settling complaints and disputes**.

Roles that administrative authorities should play

- The Act requires administrative authorities (METI Minister) to **review the current situation of platform operation** in accordance with the submitted yearly report and **publicize the assessment results** together with an overview of the report. In such reviews, administrative authorities are expected to hold **interviews with academic experts, customers and consumers of the target specified digital platform provider, and other stakeholders in order to hear their opinions** and encourage stakeholders to share challenges and enhance mutual understanding.
- The Act authorized the METI Minister to **request** that the Japan Fair Trade Commission **take appropriate measures under the Antimonopoly Act if it is found that a digital platform provider may be suspected of being involved in any cases of violations of the Antimonopoly Act**.

Note: The regulations under the Act should be **applied** to all digital platform providers **regardless of domestic or overseas origin of the business**. METI may develop **procedures for service by publication** by referring to case examples in which the Antimonopoly Act has been applied to overseas businesses.

Roles that specified digital platform providers should play

Disclosure of information, e.g., terms and conditions

Specified digital platform providers are required to **disclose terms and conditions** to users and send **a prior notification of changes in such conditions** to them. This requirement aims to improve the transparency of trading.

[Examples of items to be disclosed]

- ✓ Prior notice of detailed changes in terms and conditions and reasons therefor
- ✓ Details of requests by the digital platform providers for customers to use additional paid services and reasons therefor
- ✓ Scope of data use
- ✓ Reasons for rejecting or stopping customers from placing their products on platforms
- ✓ Basic matters that determine search ranking

[Administrative measures and penalties]

- ✓ Issuance of recommendations and publications to improve improper practices
- ✓ Execution of cease and desist orders only when no correction is seen in such practices
- ✓ Imposition of penalties on violators of the orders

Voluntary development of procedures and systems

Specified digital platform providers are required to take necessary measures in accordance with **the guidelines** under the Act and **develop fair procedures and systems**.

[Examples of details of the guidelines]

- ✓ Development of procedures and systems to secure fairness of the platform
- ✓ Development of systems for addressing complaints and settling disputes
- ✓ Development of systems for closely communicating with stakeholders (choosing administrators in Japan)
- ✓ Building of frameworks for understanding conditions that customers are facing

[Administrative measure]

- ✓ Issuance of recommendations and publications to providers to improve their practices in cases where such actions are necessary to ensure that platform providers appropriately and effectively carry out certain measures

Report on the current situation of platform operation

Details of the report

- (1) Outline of business
- (2) Current situation of addressing complaints
- (3) Current situation of information disclosure
- (4) Current situation of voluntary development of procedures and systems
- (5) Results of self-assessment

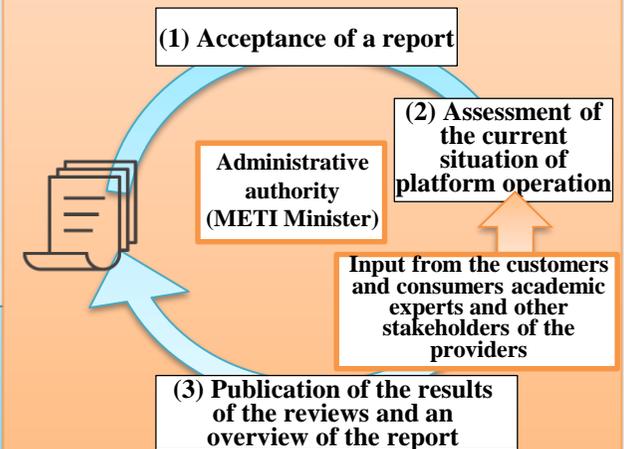
Note: Penalties may be imposed if a provider fails to submit a report or complete descriptions of required items

Voluntary actions to improve transparency and fairness in trading based on the results of the reviews

Roles of the administrative authorities

Implementation of reviews (assessment)

The administrative authority in charge is required to implement **reviews** of the current situation of specified digital platform providers' operation **with input from academic experts, customers and consumers of the providers, and other stakeholders** and to publicize the results of the reviews.



Request the JFTC to execute measures

The METI Minister is authorized to request the JFTC to take appropriate measures under the Antimonopoly Act if it is found that digital platform provider may be involved in any cases which are suspected of being violations of the Antimonopoly Act.