

Outline of Fundamental Principles for Improvement of Rules Corresponding to the Rise of Digital Platform Businesses [Tentative Translation as of 01/29/2019]

METI / JFTC / MIC

- The “Growth Strategy 2018” formulated that in order to **improve the rules corresponding to the rise of platform businesses, fundamental principles shall be established during this year**, and based on these, **concrete measures shall be proceeded promptly**.
- In response to this, **Study Group composed of experts and others** with relevant knowledge and experience of various fields such as **competition policy, information policy, consumer policy**, etc. discussed the challenges and solutions with respect to digital platform operators. **The Interim Discussion Paper was published under the name of Study Group** on December 12, 2018.
- Based on this Interim Discussion Paper, **the Ministry of Economy, Trade and Industry (METI), the Japan Fair Trade Commission (JFTC), and the Ministry of Internal Affairs and Communications (MIC)** formulated **Fundamental Principles** that raises the important topics on which concrete measures shall be proceeded from next year. Hereafter, **concrete measures will be proceeded promptly** based on these.

Outline of Fundamental Principles

1. Perspective of Legal Evaluation of Digital Platforms

In proceeding with consideration, it will be taken into account that digital platform operators may have features such as: (i) they provide **an essential basis for socio-economy**, (ii) they **design, operate and manage a field itself** participated by many consumers (individuals) and businesses, (iii) such field is **essentially highly manipulative and technically non-transparent**.

2. Promotion of Sound Development of Platform Businesses

In addition to developing and attracting innovative technologies and companies, consideration on improvement of **industry-specific regulations** that are not able to respond to platform businesses, including discussing the necessity of revision of them, will proceed.

3. Ensuring Transparency to Achieve Fairness with respect to Digital Platform Operators

- (i) As a starting point to achieve transparency and fairness, **understating of the actual state of trade practices** will be advanced **through large-scale, comprehensive and thorough surveys**.
- (ii) Consideration towards **the establishment of an expert organization having various and advanced knowledge** in fields including digital technology and businesses will be proceeded.
- (iii) For instance, consideration towards introduction of **disciplines from the viewpoint of transparency and fairness**, such as making available and disclosing certain rules or trade conditions will be proceeded.

4. Ensuring Fair and Free Competition in Digital Markets

The operation of **the Antimonopoly Act** and related institutions to ensure **fair and free competition in the digital market** will be considered, such as review of business combination that takes into account of data and innovation, the application of the rules about abuse of superior bargaining position with respect to the relationship with consumers who provide data related to themselves as a consideration for the services.

5. Considering Rules on Data Transfer and Open Data

Consideration on data portability and open API will be proceeded, taking into account various viewpoints such as **the improvement of competitive environment which keeps generating innovation**.

6. Establishment of Balanced, Flexible and Effective Rules

Establishment of effective rules will be aimed, taking into account of **flexible ways such as co-regulation**, which combines voluntary regulation and legal regulation, while paying attention to innovation in the digital sector.

7. International Application of Laws and Harmonization

Consideration on **extraterritorial application** of Japanese laws and **systems concerning effective enforcement of applicable laws** will be proceeded. In considering the disciplines, consideration will be proceeded in the direction of intending international harmonization.