

Appendix 2:

Evaluation on Transparency and Fairness of Specified Digital Platforms (Details)

The following is a detailed evaluation of the status of fulfillment of obligations under the Act on Improving Transparency and Fairness of Digital Platforms (TFDPA) and major market issues raised by business users, based on the FY2021 periodic reports submitted by the companies and other information.

1. Status of fulfillment of obligations under the TFDPA

It can be evaluated that the disclosure of information such as terms and conditions of provision by specified digital platform providers has generally improved as a result of the implementation of the TFDPA. The specified digital platform providers also showed a positive attitude toward the development of a system for handling complaints and resolving disputes. In fact, according to the results of a survey of business users,¹ about 70-80% of the business users indicated that the information disclosure and consultation services provided by the specified digital platform providers have become more understandable and courteous.

On the other hand, in light of the feedback from business users, the opinions of experts at the Monitoring Meetings, and the guidelines set by the Minister of METI, further efforts are expected from the specified digital platform providers as follows.

(1) Disclosure of information on terms and conditions of provision, etc.

① Method of disclosure

The TFDPA requires specified digital platform providers to disclose certain matters as terms and conditions of provision and, in disclosing the terms and conditions of provision including such matters, to describe them in Japanese using clear and plain expressions and to make them readily accessible for reference at any time (Article 5, Paragraphs 1 and 2 of the Act and Article 5 of the Ministerial Ordinance²). This is expected to improve the understanding of the terms and conditions of provision by business users using the specified digital platform (hereinafter referred to as "business users"). In order to realize such effects, if the terms of use, etc., which describe the terms and conditions of provision, are voluminous, efforts and innovations are required to disclose them in an easy-to-understand manner so that important information for business users will not be buried in the terms and conditions.

In this regard, Rakuten has made available to the public a website that lists and briefly explains the terms and conditions of provision required to be disclosed by the TFDPA (see page 6, etc. of the periodic report summary), and Yahoo has also made available to the public a webpage that consolidates and briefly explains the terms and conditions of provision required to be disclosed by the TFDPA (see page 42 of the periodic report summary). These can be evaluated as proactive initiatives respectively.

② Prior notice and explanation of reasons for changes in terms and conditions of provision

¹March 14, 2022 2nd Monitoring Meeting [Ref. 1] Page 15 of "the Results of Questionnaire Survey for Digital Platform Business Users" (hereinafter "2nd Monitoring Meeting [Ref. 1]").

²Refers to the Ordinance for Enforcement of the TFDPA (METI Ordinance No. 1 of 2021). The same applies hereinafter.

The TFDPA requires that, in principle, when changing the terms and conditions of provision, a specified digital platform provider must disclose the details of and reasons for the change in advance with a period of time to respond to such change (Article 5, Paragraph 4, Item 1 of the Act). This allows the business user a preparation period to respond to changes in the terms and conditions of provision. In addition, the reason for the change will be disclosed, which is expected to have the effect of making it easier to offer consultation if necessary.

Regarding the advance notification period for changes to the terms and conditions, according to the results of a questionnaire survey of business users³, approximately 60-80% of respondents indicated that they were notified three months or more in advance, and 80-90% when combined with those who indicated that they were notified one month or more in advance, indicating a certain level of efforts to address the issue. On the other hand, in some cases, some business users have commented that the time period for responding to changes is insufficient.

At Apple, there was a case of giving 15 days' notice of a change in the App Store pricing table (Tier) price.⁴ When making changes to the terms and conditions of provision, etc., it is necessary to provide a sufficient preparation period, taking into consideration the circumstances of the business user, and to explain the details and reasons for the changes in an easy-to-understand manner. In addition to this, it is also necessary to make the process of dialogue with business users more effective. From these perspectives, we will closely monitor each company's response to changes in terms and conditions of provision.

In terms of disclosing changes in an easy-to-understand manner, Rakuten provides explanations at events for business users in addition to regular announcements when making changes that have a large impact on business users (see page 17 of the periodic report summary), and Yahoo provides a table comparing the old and new versions of the changes (see page 25 of the periodic report summary). Google has also released a Japanese-language video explaining the new policy changes (see page 12 of the summary of the periodic report), each of which can be evaluated as an example of proactive efforts.

In terms of fully considering the circumstances of the business users when changing the terms and conditions of provision, Yahoo held interviews in advance with the business users that would be most affected (see page 3 of the minutes of the 6th Monitoring Meeting held on September 22, 2022 (hereinafter referred to as the "6th Monitoring Meeting")), which is an example of efforts to actively listen to the opinions of business users when changing the terms and conditions of provision.

③ Response to rejection of transaction

The measures to be taken, such as prior notice and notification of reasons, when suspending an account or removing an app from the app store, are described below (see "2 (3) Procedures for Account Suspension and App Removal").

(2) Establish procedures and systems to promote mutual understanding with business users

The TFDPA obliges specified digital platform providers to take necessary measures to promote mutual understanding in business relationships with business users (Article 7, Paragraph 1 of the Act). In order to contribute to the appropriate and effective implementation of such measures, guidelines have been established by the Minister

³See the page 20 of the 2nd Monitoring Meeting [Ref.1].

⁴Subsequently (on December 7, 2022), Apple announced that it would take measures to make the App Store pricing tables (Tier) more flexible for price setting by business users. This would also allow business users to avoid the impact of Tier price changes due to exchange rate fluctuations by Apple, if they choose, and eliminate the need for work to respond to such changes.

of METI (Article 7, Paragraph 2 of the Act), and specified digital platform providers are required to explain in their periodic reports the specific measures they have taken to realize the desirable direction of efforts indicated in the "Fundamental Approach " of the said guidelines. (Article 9, Paragraph 1, Item 4 of the Act).

① Establishment of procedures and systems to effectively promote operational improvements

Specified digital platform providers are expected to continuously improve their operations to promote mutual understanding with business users.

In this regard, Amazon has set various indicators and targets for the accuracy of each measure, such as suspending listings, and monitors and periodically scrutinizes their progress, identifies specific measures for improvement, sets specific targets for those in charge of each improvement measure, and manages progress. In addition to this, an independent team regularly audits the actions and decisions of the teams that implement measures such as suspension of exhibits (see page 10 of the summary of the periodic report). Rakuten also regularly holds meetings to hear opinions from outside experts, and discloses the agenda, opinions of the experts, and details of improvement activities based on such opinions on its portal site for business users (see page 21 of the summary of the periodic report). These efforts can be evaluated as examples of desirable efforts in light of the above-mentioned objectives.

② Explanation of the effectiveness of the procedures and systems and their approach to improvement

In the first periodic report submitted after the TFDPA went into effect, a number of initiatives were reported by each company, but the actual operation and effectiveness of these initiatives were not clear in many cases.

In order for specified digital platform providers to secure the trust of business users and society as a whole, it is important to explain their initiatives in a way that can be verified externally. For this purpose, in the next periodic report and external explanations, etc., we expect the following:

- i) Present the effectiveness of various efforts, including quantitative results, specific examples of how issues were addressed, and measures to effectively promote improvements, with evidence from internal audits, etc.;
- ii) Explain not only the improvement measures already implemented but also the items considered current issues and future action plans, thereby demonstrating a stance of voluntary and proactive improvement of operations.

In doing so, it is expected that the domestic managers, who are responsible for communicating with all parties concerned including business users, will play a central role in improving the operation.

In terms of explaining specific examples of operational improvements made, Yahoo provided specific details of improvements made based on the findings of the internal audit (that a system and mechanism are needed to handle and resolve complaints comprehensively, appropriately, and promptly) (see page 46 of the periodic report summary). As specific examples of how Google has used user feedback to improve its operations, Google has discussed changes to the "Google Play Policy on Cash Gambling, Games, and Contests" with a Japanese user group that provides an online crane game app, and has introduced a certification system and monitoring system in cooperation with the group as a pilot program to enable the app's continued distribution (see page 11 of the periodic report summary), and provided an explanation of examples of updated policies on authorship in news apps based on feedback from Japanese news organizations (see page 11 of the periodic report summary). As a specific example of how the opinions of business users led to operational improvements, Apple explained a case in which the guidelines for describing app metadata were updated based on the opinions of business users (see page 33 of the periodic

report summary). These initiatives can be evaluated as examples of desirable efforts in light of the above-mentioned objectives.

In terms of explaining current issues and future policies, Yahoo indicated that "maintaining transparency when giving preferential treatment to its own Group company stores" is an issue for the future, and presented a specific policy (see page 44 of the periodic report summary). Google also indicated a specific policy for "notification regarding temporary suspensions of account" as a future issue (see "the periodic report summary under the TFDPA" [Ref. 3], page 14 of the 6th Monitoring Meeting, September 22, 2022 ("6th Monitoring Meeting [Ref. 3]")). These efforts can be evaluated as examples of desirable efforts in light of the above-mentioned objectives.

(3) Status of complaint handling and dispute resolution

The TFDPA requires the establishment of procedures and systems necessary for handling complaints and resolving disputes from business users as part of the establishment of procedures and systems to promote mutual understanding with business users (Article 7, Paragraph 3, Item 3 of the Act), and the specified digital platform providers are required to report the number of complaints and disputes, major types, and average processing period in periodic reports (Article 9, Paragraph 1, Item 2 of the Act, Article 13, Paragraph 2 of the Ministerial Ordinance).

① Disclosure of information for objective evaluation of initiatives

Through the periodic reports for FY2021, etc., various information was provided by specified digital platform providers on their procedures and systems for complaint handling and dispute resolution, as well as their performance (see Appendix 3). Such information disclosure will enable objective evaluation of each company's efforts, and will contribute to gaining a sense of acceptance and trust from business users and society as a whole. We expect specified digital platform providers to proactively disclose information that contributes to an objective evaluation of their efforts in complaint handling and dispute resolution.

In this regard, Amazon specifically explained the percentage (approximately 74%) of complaints from business users that were ultimately resolved in accordance with the wishes of the business users (see page 5 of the periodic report summary). In addition to explaining the results of the questionnaire conducted by the Help Desk (85% of respondents were satisfied) (see page 6 of the periodic report summary), Yahoo explained the number of opinions received from business users (approximately 421 (FY2021)) and the number of cases that resulted in functional improvements (76 cases), and in addition, the results are visualized for business users (see page 36 of the "Questions and Confirmation Items for Specified Digital Platform Providers (Responses from Each Company)" [Ref. 3], 3rd Monitoring Meeting, August 25, 2022 (hereinafter referred to as "3rd Monitoring Meeting [Ref. 3]")). Apple provided a specific and detailed explanation of the results and reasons for the processing of the three complaints filed (see page 4 of the periodic report summary). Google explained the percentage of complaints and disputes from business users that resulted in Google's judgment being maintained (approximately 25%), etc. (see page 5 of the 6th Monitoring Meeting [Ref. 3]). These initiatives can be evaluated as examples of desirable efforts in light of the above-mentioned objectives.

② Continuous improvement of response

Regarding complaint handling and dispute resolution by specified digital platform providers, business users have voiced comments such as, "Responses to inquiries are canned and problems are not resolved," "Insufficient

communication when a problem arises does not lead to a resolution," and "There are some cases where the Japanese language is not used to communicate properly", etc.

Specific methods for handling complaints and resolving disputes are to be implemented by each company with originality and ingenuity based on its actual business operations including the number of business users using the service, while ongoing efforts are required to improve responses considering the feedback from business users.

In this regard, Amazon explained that, in preparing and using communication plans and notification letters with business users in advance, it regularly scrutinizes the opinions of business users regarding the quality of communication, etc., and improves the prescribed plans and letters (see page 12 of the 3rd Monitoring Meeting [Ref. 3]). In addition, Amazon explained that communication is conducted in accordance with the Japanese communication plan and the text of the notice, which are carefully reviewed by the Japanese native speaker in charge, and that the prescribed text is adjusted by regularly reviewing the opinions of the business users regarding the quality of communication, etc., so that communication conforms to Japanese business practices (see page 13 of the 3rd Monitoring Meeting [Ref. 3]). On the other hand, in light of the business users' comments, and the possibility that interactions using the prescribed communication plan and notification text may have led to the business users' comments described above, we expect the company to continue its efforts to improve the quality of communication with the business users in the future.

Apple explained that complaints received on the Complaint Form⁵, which was established in connection with the implementation of the TFDPA, are reviewed, investigated, and evaluated by a cross-functional team of various experienced, highly trained, and designated experts, and the results of the review are answered individually (see page 76 of the 3rd Monitoring Meeting [Ref. 3]). On the other hand, in view of the small number of complaints and the opinions of business users, it is possible that the above complaint form is not yet fully recognized by business users, and we expect efforts to increase recognition by business users.

In order to utilize the opinions of business users for operational improvements, exchanging opinions with external organizations such as the Digital Platform Consultation Desk, ⁶etc. is considered to be an effective approach.

In this regard, Amazon has established a close relationship with the Japan Direct Marketing Association (JADMA), to which METI entrusts the operation of the Digital Platform Consultation Desk (for online mall users), and when JADMA points out issues with Amazon, the company promptly identifies the causes and promotes the implementation of remedial measures in cooperation with the relevant departments (see page 14 of the periodic report summary). Google has also established a new communication channel with the Mobile Content Forum (MCF), to which METI has entrusted the operation of the Digital Platform Consultation Desk (for app store users) to exchange opinions with business user groups (see pages 12 and 14 of the periodic report summary). These efforts can be evaluated as examples of desirable efforts in light of the above objectives.

③ Use of third-party organizations for dispute resolution

In resolving disputes with business users, it may be effective to involve a third party. For example, if there is a dispute over measures taken by a specified digital platform provider, such as account suspension measures, and sufficient information cannot be disclosed to the business user due to security measures or other circumstances, it

⁵<https://developer.apple.com/contact/p2b/>

⁶https://www.meti.go.jp/policy/mono_info_service/digitalplatform/business.html

may be difficult to objectively confirm the appropriateness of such measures. In such cases, it would be highly appreciated if measures such as the use of ADR (Alternative Dispute Resolution), etc., at the request of the business user and reasonable cost-sharing for dispute resolution are considered.

2. Major issues and expected direction of initiatives in the field of online malls and app stores

We confirmed the status of efforts by specified digital platform providers with regard to the relatively large number of comments⁷ received from business users by the Digital Platform Consultation Desk, etc. and the contents that could affect a large number of business users. The following is a summary of business users' comments on each market issue, the status of efforts by each company, and the expected direction of efforts from the perspective of improving transparency and fairness.

(1) App store fees and billing methods

App store fees have become an extremely important concern for businesses that provide digital services for mobile devices for a fee, influencing business feasibility decisions and future investments, and many have pointed out issues regarding the level of fees and how they should be charged. Specifically, for specified digital platforms, while some have said that "the fee rate for in-app purchases has been reduced," there has also been feedback from the business users such as "The level of fees is too high. The reasons for the level of fees should be fully disclosed," "Fair competition is not possible due to the company's preferential treatment regarding fees," and "It is unreasonable to be forced to use in-app billing services." In addition, there have been various developments internationally regarding App Store fees and billing methods, including lawsuits, competition law enforcement, and institutional reforms, as a possible competition issue.

In response, Apple and Google provided the following information.

■Apple

- The fee is not a payment processing fee, but more broadly a means for Apple to obtain compensation for operating the App Store (see page 44 of the 3rd Monitoring Meeting [Ref. 3]).
- Apple provides access to technology platforms, tools, software, and other resources (including marketing support) to its subscribing businesses at a very low cost. Apple has also invested billions of dollars to grow its ecosystem, providing tools, software, and technology to make it as easy as possible for subscription providers to bring their own ideas to life on the iPhone. In consideration of these extensive supports, we believe the fee level set by Apple is reasonable. App Store fees should be compared to fees charged by other multi-faceted platforms that mediate between buyers and sellers and generate profits for subscription operators and content providers (sellers). This shows that Apple's fees have been consistent with prevailing practices in the market from the beginning (industry standard level). Fees charged by Apple are continually being reduced. Fees have never been increased. This is considered evidence that the fees are fair (see pages 46 and 47 of the 3rd Monitoring Meeting [Ref. 3]).
- For Apple's own content in Apple's own apps, Apple does not pay any fees to Apple itself. Economically,

⁷It should be noted that complaints may include those based on misunderstanding or lack of awareness of the terms and conditions, etc.

the fact that there is no payment to Apple from Apple's own apps is an example of how a vertically integrated firm can eliminate double marginalization. As widely recognized in competition law, this feature of vertically integrated firms promotes competition, just as the entry of more efficient firms is beneficial to consumers. There is no doubt that vertical integration is a legitimate form of business organization in the digital platform economy (where market participants frequently operate at multiple levels of the value chain). The elimination of double marginalization, which is the essence of vertical integration, lowers the marginal cost of sales in downstream markets (see page 48 of the 3rd Monitoring Meeting [Ref. 3]).

- In-app purchases fulfill two core functions in the App Store, and if a user adopts a mechanism other than in-app purchases, it will be unable to fulfill either function. First, in-app purchases are a mechanism for Apple to collect fees. If Apple's fees are charged for App Store transactions between the subscriber and iOS user, these transactions are processed through in-app purchases. In-app billing is at the same time a technical mechanism to ensure that Apple is able to collect fees on eligible sales in the App Store by the business users. Second, in-app billing ensures the high-quality user experience that underpins Apple's reputation by providing iOS users with a single, secure, and easy-to-use payment method for all in-app billing for which fees are paid to Apple (see page 51 of the 3rd Monitoring Meeting [Ref. 3]).
- Following the Fair Trade Commission's review of the antitrust case, Apple implemented remedial measures such as allowing outlinks for reader applications in the music distribution business and other businesses.

■Google

- The fee is not a settlement charge. Google continues to invest in Android and Google Play (including investment in services and tools provided to developers and users) through service fees paid by some developers (see page 87 of the 3rd Monitoring Meeting [Ref. 3]).
- Google believes that the level of service fees is appropriate and reasonable. This is comparable or lower than similar fees charged by other competing app stores and fees charged by other digital marketplace operators. The level of service fees reflects (a) the value Google provides to its subscribers and consumers, (b) the costs Google incurs to develop, maintain, and improve the Google Play ecosystem, and (c) the competition from the many other, reflecting competition from a number of app stores and other distribution channels available to the businesses and users on Android or on other operating systems (See page 92 of the 3rd Monitoring Meeting [Ref. 3]).
- The same policies apply to Google's own apps as those of the business users, including the level of fees paid to Google and the use of Google Play's billing system for in-app purchases of digital goods in principle (see page 93 of the 3rd Monitoring Meeting [Ref. 3]).
- The payment policy is the result of careful consideration to balance the interests of all key stakeholders in the Google Play ecosystem, including the business users, users, and Google Play itself. In this regard, prohibiting out-links to alternative payment options would accomplish two primary objectives. First, it helps ensure user security and experience, prevent fraud, and reduce payment friction. Allowing out-links to alternative payment options online would allow a malicious person to direct users to potentially fraudulent third-party payment options. Second, Google will be able to charge service fees to business users more efficiently (see page 95 of the 3rd Monitoring Meeting [Ref. 3]).
- Google has applied its User Choice Billing pilot program not only to countries and regions where it is required by law, but also to Japan, and announced its policy to increase billing method options on a trial

The fact that Apple and Google, which operate app stores, provided a certain level of explanation regarding the positioning of fees (that they are app store usage fees, not settlement fees), their views on the reasonableness of fee levels, and whether or not they pay their own fees and levels, etc., is a first step toward mutual understanding with business users. In addition, while it has been pointed out that, in practice, only payment methods designated by Apple and Google can be used for billing, Google has applied its User Choice Billing pilot program not only to countries and regions where it is required by law, but also to Japan, and announced its policy to increase billing method options on a trial basis for applications other than game applications, which can be evaluated as an example of initiatives based on user feedback.

However, there is a growing realization that expanding payment options alone will not necessarily encourage competition for app store fees. It is difficult to recognize that there is sufficient competition in terms of fees, and there are also questions as to whether fair competition between users and Apple will be distorted by whether or not fees are paid, and whether the distinction between apps with 15% to 30% fees and those without fees is reasonable, and in this situation, it cannot be said that the situation has yet to be understood and accepted by the business users. We expect Apple and Google to continue to work toward mutual understanding with business users, for example, by explaining in detail the relationship between costs and fees related to app store operations and how costs should be borne, and by promoting discussions with organizations consisting of business users. In addition, with regard to the rule changes regarding payment methods, it is important that they are actually used by business users, and we will closely monitor future trends, including evaluations from business users.

(2) Preferential treatment of the company and its affiliates

In specified digital platforms, the specified digital platform providers or its affiliates may offer products and other services. Specifically, Amazon conducts direct sales business on Amazon.co.jp. Directly managed stores and stores of affiliated companies of Rakuten, Inc. on Rakuten Ichiba, and stores of affiliated companies of Yahoo Japan on Yahoo! Shopping undertake sales activities, respectively. In addition, Apple and Google offer their own apps and other products in the App Store and Google Play Store, respectively.

Under these circumstances, business users have voiced concerns that "specified digital platform providers may be favoring themselves or their affiliated companies" in situations such as measures against violations, display ranking of products and apps, and use of data related to the business activities of business users. Internationally, there have been various discussions and examinations of in-house preferential practices by major digital platforms as a possible competition issue.

In response, specified digital platform providers provided the following information.

[Actions taken in response to violations of the rule]

■Amazon

- Regarding measures taken against individual products, the same policies (e.g., what products are subject to the sales ban) and the same operational rules (e.g., what actions are taken for violations of the terms and conditions) are applied regardless of whether the seller is Amazon or a business user. The tool used for the measures is also not equipped with a function to identify the seller of the product, and the tool itself has

specifications to prevent "in-house preferential treatment" in relation to measures such as suspending the sale of the product (see page 9 of the 3rd Monitoring Meeting [Ref. 3]).

- Although the same policies are applied to both Amazon and the business users, the operational rules may differ depending on the nature of the violation of terms and conditions by the business user and the risk of repeated violation of terms and conditions, and for example, a business user with a history of violating terms and conditions in the past or a business user that mainly sells products that frequently violate terms and conditions may be considered a high risk case, and in order to protect consumers and honest businesses, measures against the account may be implemented earlier than those for low risk businesses or Amazon's direct sales business (see page 11 of the 3rd Monitoring Session [Ref. 3]).

■Rakuten

- With regard to temporary suspension of services, total rejection (account suspension measures, etc.), etc., no special measures will be taken due to the fact that the store is a Rakuten store (see page 23 of the 3rd Monitoring Meeting [Ref. 3]).
- As a circumstance supporting the above policy, there is no significant difference between stores operated by the company or its affiliates and other stores as a percentage of the stores where violations were pointed out in the stores opened (January 1, 2021 to May 30, 2022) (see page 23 of the 3rd Monitoring Meeting [Ref. 3]).

■Yahoo

- The term "preferential treatment for group companies" in the measures taken against violations means "not taking disciplinary action in cases where disciplinary action would otherwise be taken by an own group company store" and such "preferential treatment for group companies" is not to be given (see page 38 of the periodic report summary).
- As an effort to objectively ensure and explain the above policy, the company does not distinguish between its own group company stores and others in the process of detecting guideline violations, and "preferential treatment for group companies" is subject to internal audits. The company has actually taken actions against its own group company stores, such as removing products and taking measures to close stores (see page 38 of the periodic report summary).

[The order in which the products are displayed]

■Amazon

- Amazon's primary goal regarding the display of search results is to make it easy for consumers to find the products they are looking for, and Amazon's mechanism for searching for products does not take into account whether the seller of the product is Amazon or a business user (see page 14 of the 3rd Monitoring Meeting [Ref. 3]).
- The mechanism for display order is carefully reviewed in terms of whether it improves the consumer's shopping experience and whether it is properly implemented technically, and even during this review, the emphasis is on whether it makes it easier for consumers to find the products they are looking for, and whether the seller of the product is Amazon or a business user is not taken into consideration (see page 14 of the 3rd Monitoring Meeting [Ref. 3]).

- On Amazon.co.jp, a product page is created for each product, and when multiple sellers are selling the product in question, one of the seller's listings (Recommended Listings) is displayed near the top of the product detail page, allowing the buyer to "Buy Now" with a single click or add the product to his/her shopping cart.
- In order to promote sales of products by business users, specific products may be displayed as "recommended products" or the like, apart from search rankings.

■Rakuten

- There is no preferential treatment of specific products or stores with respect to product search results (see page 28 of the 3rd Monitoring Meeting [Ref. 3]).
- As an effort to ensure the above policy, an internal system has been established for smooth business execution, and a new organization, "Commerce Liaison Office," consisting of a person in charge of creating rules for Rakuten Ichiba and a person in charge of business with a license as a lawyer, has been established to ensure compliance of TFDPA under the supervision of the business manager⁸ (see page 28 of the 3rd Monitoring Meeting [Ref. 3]).
- In addition to search results, Rakuten Ichiba discloses that it may offer special promotions for certain businesses, products, and brands in order to promote products and brands that are more appealing to users who shop at Rakuten Ichiba stores, but it does not treat differently than usual because of being first-party (direct sales business of Rakuten or its affiliates). (in this regard, Rakuten specifically explained the percentage of first-party stores in eligible stores for several of its campaigns.) (See page 28 of the 3rd Monitoring Meeting [Ref. 3], and pages 3-6 of the Appendix to the Minutes of 4th Monitoring Meeting on September 13, 2022 (hereinafter referred to as "4th Monitoring Meeting")).

■Yahoo

- Regarding the group company stores that share our philosophy of "aiming to be an online mall where customers can easily find and obtain the products they are looking for based on our user-first philosophy," it may give them preferential treatment even if they have not accumulated any store experience (since Yahoo does not operate a direct sales business, this would be preferential treatment for group company stores) (see page 43 of the periodic report summary).
- The company aims to trigger mutual understanding with user businesses by formulating and disclosing management policies related to conflicts of interest and in-house preferential practices in the online mall business, as well as by clearly indicating the contact information for inquiries (see page 43 of the periodic report summary).
- Yahoo explained that it recognizes the importance of "maintaining transparency when giving preferential treatment to group company stores," i.e., making it clear which stores are affected by the preferential treatment from the business user's perspective, and in addition to the existing explanation that preferential measures may be implemented in some cases, the specific store names in such cases were disclosed (see page 38 of the 3rd Monitoring Meeting [Ref. 3]).
- Future issues are "whether or not the checking system of preferential treatment works" and "whether or not information disclosures lead to understanding", and the company plans to "constantly review its checking

⁸ However, specific efforts in terms of addressing their own preferential concerns have not been identified.

system and information disclosure in the future" (see page 4 of the "Presentation Material of the 6th Monitoring Meeting of Yahoo Japan Corporation [Ref. 2]" (hereinafter referred to as the "6th Monitoring Meeting [Ref. 2]")).

■Apple

- Apple does not provide preferential treatment in the labeling of its products (see page 77 of the 3rd Monitoring Meeting [Ref. 3]).

■Google

- It discloses that all apps are promoted on the Google Play Store in accordance with the same principles, and does not give its own preferential treatment in the display of apps on the Google Play Store (see page 122 of the 3rd Monitoring Meeting [Ref. 3]).

[Use of data concerning the business activities of the business user]

■Amazon

- Regarding the use of data within the company, an internal policy "Seller Data Protection Policy" has been established to restrict the use of specific data concerning business users, and standards for the handling of two types of data concerning business users ("unique data of sellers" and "aggregate data"⁹) have been established (see page 15 of the 3rd Monitoring Meeting [Ref. 3]).
- The use of "unique data of sellers" is prohibited with respect to the determination of price, procurement quantity, and inventory quantity in the direct sales business. In making decisions regarding the launch of private brand products, the company uses data obtained from a number of data sources, including private brands provided by competing retailers and publicly available information such as trends covered in trade journals, etc., but it does not use "unique data of sellers" (see page 16 of the 3rd Monitoring Meeting [Ref. 3]).
- "Aggregate data" is made available internally for legitimate business purposes (e.g., to recommend actions to distributors, to improve the content of analyses, etc.) (see page 16 of the 3rd Monitoring Meeting [Ref. 3]).
- It provides a dashboard that recommends solutions for using the aggregated information to increase sales, and gives business users access to information about their sales activities in the Amazon store, as well as certain aggregated information. In addition, detailed "best-seller rankings" for all products sold in the Amazon store are available on a page that can be viewed by anyone without being confidential information (see page 15 of the 3rd Monitoring Meeting [Ref. 3]).

■Rakuten

- "Individual sales data of specified vendors" will not be used for the benefit of third-party stores (including first-party stores), except in the following cases: 1) when EC consultants make proposals to specified vendors to improve sales, and use and analyze the data to understand the situation of the specified vendors and prepare more accurate proposals; or 2) when EC consultants, with the approval of the specified store

⁹"Unique data of sellers" refers to non-public information of a particular business user and confidential information of a particular business user, and "aggregate data" refers to all non-public data that is not unique to a particular business user.

operators, cover and share the situation of the specified vendors and their best practices in PR magazines for the specified vendors and at events for the specified vendors (see page 29 of the 3rd Monitoring Meeting [Ref. 3]).

- The "Rakuten Ichiba overall market data," which aggregates the sales data of each business user, may be analyzed by EC consultants to prepare proposals for improving the sales of specific vendors. The "Rakuten Ichiba overall market data" is also provided to business users through a free data analysis function (R Karte) (see page 29 of the 3rd Monitoring Meeting [Ref. 3]).
- If it is determined that such disclosure will contribute to the expansion of the distribution of Rakuten Ichiba as a whole, "Rakuten Ichida overall market data" and other data may be disclosed to specific vendors after concluding a confidentiality agreement, etc., and even in such cases, "individual sales data of specific vendors" will not be disclosed to other vendors (including first party stores) (see page 29 of the 3rd Monitoring Meeting [Ref. 3]).
- The information obtained under the vendor agreement, such as information on suppliers of the business user, will not be used to conduct sales activities to open a vendor or exhibit at such suppliers (see page 9 of the Appendix of the Minutes of the 4th Monitoring Meeting).
- The above-mentioned "Commerce Liaison Office" has been established and a review process has been established for new data use, etc., under the supervision of the compliance officer to ensure that data use is in accordance with the privacy policy, internal regulations, and applicable laws (see page 29 of the 3rd Monitoring Meeting [Ref. 3]).

■Yahoo

- Regarding the use of "market data for Yahoo! Shopping as a whole (aggregated sales data of each vendor¹⁰)," the data is provided to affiliated manufacturers under confidentiality agreements so that manufacturers affiliated with Yahoo can check the sales status of their products (see page 44 of the periodic report summary).
- "Sales data of individual vendors" will be used by the sales staff to prepare accurate proposals that match the situation of each business user when making proposals to improve sales, to provide Yahoo services such as recommendations and search rankings, to improve services, and to consider new services, etc. (see page 44 of the periodic report summary).
- A data administrator independent of the sales department is appointed to determine whether the data can be used from a neutral perspective. When new data is used, the process is for the internal data administrator to determine its appropriateness, after which it is used by the Sales Division in accordance with internal guidelines (see page 39 of the 3rd Monitoring Meeting [Ref. 3]).
- The management policy regarding conflicts of interest and own preferential treatment in the online mall business has been formulated and disclosed, and the contact information for inquiries is also clearly indicated, aiming to trigger mutual understanding with business users (see page 39 of the 3rd Monitoring Meeting [Ref. 3]).

■Apple

¹⁰"Aggregated data" refers to statistical data of sales data from multiple vendors, which makes it impossible to identify vendors through statistics.

- Due to the business nature of the platform, Apple is in a position to have access to information about apps before they are released to the public, and although Apple will not use such information to abuse its own preferential treatment or business plan, a case could occur where Apple is planning a similar business by accident. If Apple were to be bound by unforeseen confidentiality restrictions in such a case, its own business might be hindered, and therefore, the Apple Developer Program License Agreement 9.3 must be written as such (see page 80 of the 3rd Monitoring Meeting [Ref. 3]).
- Apple's data analysis team centrally manages access to App Store data and has established a process to prevent access to data without obtaining the necessary approvals in advance (see page 80 of the 3rd Monitoring Meeting [Ref. 3]).

■Google

- With regard to the data that Google Play collects from users when they interact with apps on Google's platform, the company has a formal policy prohibiting the company-wide sharing of "non-public and identifiable data about third-party developers" (see page 125 of the 3rd Monitoring Meeting [Ref. 3]).
- The above policy prohibits the sharing of "non-public and identifiable developer data" with developers of Google-made apps to give them an unfair advantage or to use it for any purpose other than to benefit the Google Play ecosystem (for example, to develop anti-fraud features) (see page 125 of the 3rd Monitoring Meeting [Ref. 3]).

The fact that each company responded to the concerns of business users about preferential treatment of their own companies and affiliated companies by explaining whether or not their own companies are preferentially treated and their related efforts is commendable as a first step toward mutual understanding between business users and the companies. For example, Rakuten explained that it would not take any special measures, such as temporary suspension of services or rejection of all services (account suspension, etc.), on the grounds that the stores were operated by Rakuten, and as a circumstance supporting this policy, they explained that there is no significant difference between the stores operated by the company or its affiliates and other stores, regarding the percentage of the stores where violations were pointed out. Yahoo has voluntarily and proactively taken steps to improve the transparency and fairness of preferential treatment of its group company stores, including disclosing that it may give preferential treatment to its group company stores in product labeling and other situations, voluntarily establishing and announcing a management policy regarding conflicts of interest and preferential treatment of its group companies, and subjecting preferential treatment of its group companies to internal audit. Furthermore, Yahoo's intention to review its own group company store preferential treatment tirelessly after explaining future issues is highly commendable.

However, this explanation does not completely dispel concerns about the company's preferential treatment. There are diverse arguments for in-house preferential practices, and while some are justified, others may be evaluated as problematic from the standpoint of their potential to significantly distort competitive conditions or from the standpoint of fairness and impartiality. It is also pointed out that it is difficult to externally verify whether or not a company has preferential treatment, and that even with seemingly fair standards, it is possible that a company's own company or affiliated companies may ultimately have an advantage over business users. Since the specified digital platform providers are entities that have a high need to increase their transparency and fairness, it is important to dispel the concerns of not only the business users, but also of society, including experts. We expect each company to

disclose information and establish a system so that enables objective verification of whether or not it and its affiliates receive preferential treatment and, if so, the legitimacy of such treatment, and then to explain those efforts.

On Amazon.co.jp, a product page is created for each product, and when multiple sellers are selling the product in question, one of the seller's listings (Recommended Listings) is displayed near the top of the product detail page, allowing the buyer to "Buy Now" with a single click or add the product to his/her shopping cart. Where concerns have been raised about in-house preferential treatment in these schemes, this may be a subject for discussion and evaluation in the future.

(3) Procedures for account suspension and app deletion

① Procedures for account suspension

The TFDPA requires that, in principle, 30 days prior to taking measures such as account suspension (refusal of all transactions), the contents and reasons for such measures must be notified (Article 5, Paragraph 4, Item 2 of the Act). This is expected to make it easier for business users to review their operations or offer consultations as necessary, since they will know the reasons for the measures in advance.

On the other hand, there are cases where a specified digital platform providers suspend the account of a business user who has committed an infraction and withholds sales proceeds, and business users have voiced such opinions as "I don't know how to respond to inquiries about account suspension as there is no explanation of the reason for account suspension," "Responses to inquiries about account suspension are repetitive canned responses," "My account was suspended for reasons related to an unrelated offending account, but it is difficult to prove that there is no relationship," and "I want to reinstate my suspended account, but I don't know how to respond." This may be due to insufficient explanation of the reason or difficulty in providing detailed notification of the reason due to security or other factors. The TFDPA also does not impose the obligation to give notice of reasons, etc. in certain exceptional cases, such as when it harms the legitimate interests of consumers, etc. (Article 5, Paragraph 4, Item 4, proviso of the Act, Article 11, Paragraph 2 of the Ministerial Ordinance).

In response, specified digital platform providers provided the following information.

■Amazon

- In implementing account suspension measures, the company has developed written procedures that specifically describe the implementation of the measures to ensure consistency and fairness of the measures, and these procedures are reviewed and approved by appropriate members of the Worldwide Selling Partner Services' management team to ensure that each stakeholder's interests are adequately protected. When introducing new measures to business users, the company conducts short-term trials and phased-in implementation before full-scale implementation to ensure that the conditions for implementing the measures are functioning as envisioned and achieving a sufficient level of accuracy (see page 10 of the 3rd Monitoring Meeting [Ref. 3]).
- Regarding communication when implementing account suspension measures, a notice is sent to the user business that includes the reason for implementing the measure, the targeted action (including the product subject to the measure), the amount and period of retention if sales proceeds are to be retained, and contact information if the business user wishes to file an objection. In order to maintain consistency and fairness in communication, the text is scrutinized and approved in advance by an appropriate member of the

management team and confirmed by the Japanese Legal Department as being in compliance with applicable laws and regulations (see page 10 of the 3rd Monitoring Meeting [Ref. 3]).

- In determining whether the account suspension measures fall under the exceptions to the disclosure obligations stipulated by the TFDPA, a careful and detailed review was conducted mainly by Japan's Legal Department to ensure that there is an appropriate basis for the decision and that there are reasonable grounds (see page 10 of the 3rd Monitoring Meeting [Ref. 3]).
- When there is an objection to the account suspension from the user business, the team that implemented the measure will investigate again, carefully review the details, and if deemed appropriate, restore the account to the status before the measure was implemented. Target time is set for prompt response to objections. For cases with complex facts, etc., personnel with sufficient experience and ability will be assigned to analyze and respond to them to ensure that appropriate measures are taken (see page 11 of the 3rd Monitoring Meeting [Ref. 3]).
- If, in the course of responding to an objection, it is confirmed that under certain factual circumstances an incorrect action would result, the conditions under which the action would be taken are promptly updated to prevent recurrence. The company has established various mechanisms to monitor and improve the operation of account suspension measures, and it also strives to ensure the accuracy of account suspension measures in various ways. Whether the conditions for implementation of each measure are functioning properly is managed by examining various indicators and opinions received from business users, and a mechanism is in place to link these indicators and opinions to operational improvements (see page 11 of the 3rd Monitoring Meeting [Ref. 3]).

■Rakuten

- When taking measures to suspend accounts, fair and careful reviews are conducted by a council of relevant departments based on the prescribed internal flow (see page 24 of the 3rd Monitoring Meeting [Ref. 3]).
- In cases where it is impossible to determine from the page whether or not the product or act is a prohibited product or prohibited act, careful judgment is made by asking the business user to submit a written response and confirming the facts before recognizing the act as a violation (see page 24 of the 3rd Monitoring Meeting [Ref. 3]).
- When suspending an account, the company notifies the terms and conditions guideline clauses that form the basis for the suspension and the reason (the product/activity in question and the reason why the product/activity in question is problematic) (see page 24 of the 3rd Monitoring Meeting [Ref. 3]).
- A sample contract termination notice form was made public (see pages 11-13 of the Appendix to the Minutes of the 4th Monitoring Meeting).
- When pointing out violations, etc., if there are objections to the content, etc., the business user is notified that a decision will be made based on the content if he/she contacts us to that effect, and if opinions, etc., are received from the business user, the company listens to them and takes specific measures (see page 24 of the 3rd Monitoring Meeting [Ref. 3]).

■Yahoo

- For each violation as defined by the guidelines for public disclosure, internal criteria are established to determine each disciplinary action, such as product removal and store closure measures. When violations

are detected by patrols, the number of violations is counted within Yahoo according to the severity and repetition of the violation for each vendor, and the store is closed or expelled in accordance with internal rules (see page 37 of the periodic report summary).

- In any case, when a mandatory expulsion is to be imposed, 60 days' notice is to be given with the reason for the expulsion, and the opportunity to object to the expulsion is ensured (see page 34 of the 3rd Monitoring Meeting [Ref. 3]).
- When expelling a store, an e-mail is sent out that not only contains the relevant provisions of the guidelines, etc., but also indicates the specific conduct that is problematic, the reason why it is problematic, the date of violation, etc., and a sample of the text of said e-mail was made public (see page 34 of the 3rd Monitoring Meeting [Ref. 3] and page 30 of the periodic report summary).
- Based on the findings of internal audits, an internal system was established and started to operate to conduct post-verification of the appropriateness of decisions to close or expel stores on a quarterly basis (see page 4 of the 6th Monitoring Meeting [Ref. 2]).

■Apple

- Apple is reluctant to remove any app from the App Store unless absolutely necessary. In fact, in many cases, the problem is being resolved while continuing to distribute apps on the App Store through communication with business users, such as by encouraging them to correct the problem at the time of the next update (see page 73 of the 3rd Monitoring Meeting [Ref. 3]).
- Regarding the reasons for disclosing to the business user when taking account suspension action, the legal team has always asked the review team to "strike a balance between providing sufficient information for the business user to take appropriate corrective action and future compliance issues" (see page 11 of the minutes of September 21, 2022, 5th Monitoring Meeting ("5th Monitoring Meeting")).
- A sample of the notification letter to be sent to business users in the case of account suspension measures was made public (see page 20 of the 5th Monitoring Meeting [Ref. 2] "App Store: A Driver of Economic Growth and Innovation").

■Google

- If a business user's app violates Google's policies, Google will provide the business user with information about the enforcement action taken, along with instructions on how to appeal such action. In many cases, the business users have self-resolved the problem by making the necessary corrections based on the detailed information and screenshots of the violation provided by Google Play (see page 111 of the 3rd Monitoring Meeting [Ref. 3]).
- Improving the content of violation warnings has resulted in a 70% reduction in objections related to not understanding the reason for account suspension. In addition, the notice was updated to make it easier for developers to understand the meaning in situations where accounts associated with the offending account are suspended, resulting in an 18% reduction in objections related to misunderstandings of the reasons for account suspensions (see page 12 of the 6th Monitoring Meeting [Ref. 3]).

While account suspension measures and the associated withholding of sales proceeds may be necessary to protect the interests of consumers, etc., they are actions that seriously affect the business activities of the business users. Specified digital platform providers are required to ensure proper processes and continuously improve their

responses while balancing the protection of the interests of consumers and others when taking measures such as account suspension.

Specifically, the following actions are required.

- i) The necessity and reasonableness of account suspension measures should be carefully determined. In particular, when taking immediate action to suspend accounts without prior notice, it is necessary to carefully determine whether the action falls under any of the exceptions under the TFDPA, including the necessity and reasonableness of such action.

In this regard, Rakuten, when taking measures to suspend accounts, has a council of relevant departments to review the measures based on the prescribed internal flow, and in cases where it is impossible to determine from the page whether or not the act is a prohibited product or prohibited act, Rakuten takes measures such as requesting the business user to submit a written response and confirming the facts before recognizing the act as a violation, which can be evaluated as a desirable measure in light of the above.

- ii) When taking measures to suspend accounts, in principle, specific reasons are required to be disclosed in advance to the extent that the business user can substantially file an objection.

In this regard, Rakuten, Yahoo, and Google have presented sample notification letters to be used in the event of contract termination, exit from the store, or account suspension. Such a response is meaningful and positively evaluated in enhancing the appropriateness and credibility of the disposition process, such as contributing to specific discussions on the granularity of reasons to be disclosed. Google reduced objections related to lack of understanding of the reason for account suspension by 70% by improving the content of violation warnings, and reduced objections related to misunderstanding of the reason for account suspension by 18% by updating the relevant account suspension notices so that the business user can easily understand their meaning. These efforts can be evaluated as examples of desirable efforts in light of the above perspectives.

- iii) If it is found that the account suspension was taken in error through an objection from the business user, etc., it is expected that efforts will be made to give full consideration to the interests of the business user, such as promptly restoring the account and considering whether or not compensation is necessary. In particular, it is important to consider how to provide after-the-fact remedial measures, such as enhancing the compensation mechanism, in light of the fact that, in cases where individual account suspension measures are automatically implemented using AI or other means, a certain percentage of wrong decisions may be made, resulting in disadvantages to a large number of users.

In particular, we expect Amazon, in light of the opinions of business users using the service, to make efforts to communicate carefully with business users using the service, such as explaining the reasons for its decision to the extent that business users are able to file objections substantively, while giving consideration to security and other circumstances, even if this is an emergency response to protect the interests of consumers and other parties.

In addition to the above, we expect the number of objections to account suspensions and examples of such objections to be explained so that the appropriateness of account suspensions can be verified externally. In addition,

it would be highly appreciated if measures such as the use of ADR (Alternative Dispute Resolution) at the request of business users, and a study on how reasonable costs for dispute resolution should be borne. Similarly, when taking action against violations, the company is required to ensure due process and fairness, as well as to continuously improve its response.

② Procedures for app removal

Some app store business users have expressed that they would like to be notified in advance when deleting apps already provided on an app store and be given the opportunity to modify their apps.

If an app provided on an app store is removed from the store, not only the business users that provides the app but also existing users of the app may be affected. It would be highly appreciated if Apple and Google voluntarily provide advance notice of app deletion in certain cases, such as when the degree of policy violation or the impact on users is minor, so that business operators can take corrective action before apps are deleted.

(4) Handling of returns and refunds

In some cases, the specified digital platform providers, rather than the relevant business users, may set the terms and conditions for returns and refunds of products and other goods provided by the business user and make the decision on individual returns. In such cases, online mall business users have voiced their dissatisfaction with comments such as "Online mall operators' campaigns to extend the return period are sometimes applied," "Online mall operators sometimes accept returns without sufficient fact-checking," and "I am dissatisfied with compensation by online mall operators in cases where a buyer has switched the returned merchandise." Some app store business users have commented, "Now that we can see transaction histories, we can prevent double refunds to app users," while others have said, "The app store operator decides on refund rules and refund acceptance, which places a burden on the business users."

In response, specified digital platform providers provided the following information.

■Amazon

- From the viewpoint of customer convenience, the entire website is considered to be one store, and in principle, Amazon is required to apply the uniform return conditions that it set for identical products (see page 6 of the 3rd Monitoring Meeting [Ref. 3]).
- The Fulfillment by Amazon service (hereinafter referred to as “FBA”), which is a fee-based optional service to store and ship inventory and perform customer service operations on behalf of the business users, and for products for which the business users use FBA, Amazon makes the primary decision regarding the return of the product, and in addition, the FBA service allows business users to file objections to Amazon’s decisions (see pages 7 and 8 of the 3rd Monitoring Meeting [Ref. 3]).
- In making individual return decisions and handling appeals regarding products sold by the business users using FBA, the following procedures are used.
 - (1) The condition of returned merchandise is checked using a predetermined checklist.
 - (2) The company notifies the business user of the customer’s return request by e-mail.
 - (3) Information is provided to the business user on the portal site (Seller Central) regarding the reason for the return selected by the customer.

- (4) The business user may request Amazon to return the returned merchandise to investigate the condition of the merchandise on its own.
 - (5) When an objection is received from a business user, the person in charge of the department that handles returns of FBA merchandise contacts the business user individually, examines the objection carefully, and checks the supporting evidence so that an appropriate conclusion can be reached in each case.
 - (6) When the business operator is unsatisfied with Amazon's response to an objection, they may file a further objection by contacting Amazon by mail, etc. (see pages 6-8 of the 3rd Monitoring Meeting [Ref. 3]).
- The percentage of cases in which Amazon accepted the claims of the business users in their objections to Amazon's return decisions is not significantly different from that in the case of general objections. (See page 14 of the Minutes of the 4th Monitoring Meeting).

■Rakuten

- The business users are entrusted with setting conditions for returns and making decisions regarding individual returns (see page 22 of the 3rd Monitoring Meeting [Ref. 3]).

■Yahoo

- The business users are entrusted with setting conditions for returns and making decisions regarding individual returns (see page 32 of the 3rd Monitoring Meeting [Ref. 3]).

■Apple

- By establishing uniform refund terms and processing consumer refunds when the original transaction was made through Apple's in-app billing, it provides end users with the convenience and security of having a consistent source and process for payments and refunds (see page 57 of the 3rd Monitoring Meeting [Ref. 3]).
- Regarding the "60-day" refund period, "Apple's refund policy is conditional and consistent with elements of consumer protection laws around the world, and generally requires end users to request a refund within 60 days, except in cases where a longer refund period is permitted by law for Japanese consumers (such as refunds related to purchases by minors). Apple also reviews refund requests to ensure that there are no signs of fraud or abuse before refunding to end users" (see page 59 of the 3rd Monitoring Meeting [Ref. 3]).
- As an effort that takes into consideration the interests of users, various tools are provided that allow business users to obtain information (e.g., status of refunds, history of in-app purchases refunded by the app for the customer, end user in-app purchase history, subscription status, and consumption information) on refunds and provide information (information such as whether the purchase was consumed, whether the purchase was delivered and properly functional, whether a free trial of the content, sample or information about the content was provided prior to purchase) to Apple with the consumer's consent when the consumer requests a refund for in-app purchases of consumables (see pages 58-60, 63, 64, 66, 67 of the 3rd Monitoring Meeting [Ref. 3]).

■Google

- Google Play's refund policy aims to balance the interests of users and business users. For refunds within 48 hours, users are allowed to request a refund from Google. The developers have authorized Google to issue refunds to users within this time period in accordance with Google Play's refund policy. In this case, the business users may not file an objection to the refund processed by Google. On the other hand, regarding refunds beyond 48 hours, it encourages users to request refunds from the business user, and allows the business user to set its own refund conditions and make individual refund decisions (see pages 98-100, 102 of the 3rd Monitoring Meeting [Ref. 3]).
- The rules regarding refunds reflect Google's efforts to balance the interests of users and business users (see pages 98 and 99 of the 3rd Monitoring Meeting [Ref. 3]).
- Efforts by Google to make refund decisions, for example, when a friend or family member made an accidental purchase, or when a purchase was made without the consumer's consent, are usually approved by Google Play for a refund. On the other hand, Google cannot provide refunds to consumers who misuse the refund system (e.g., by giving their account or payment information to others) (see page 98 of the 3rd Monitoring Meeting [Ref. 3]).

Rakuten Ichiba and Yahoo! Shopping are less likely to cause dissatisfaction among business users regarding returns, since the conditions for returns and refunds and the decision to accept individual returns and refunds are left to the user businesses. On the other hand, at Amazon.co.jp, the App Store, and Google Play Store, Amazon, Apple, or Google may set conditions and make decisions regarding individual returns and refunds for products and other goods provided by business users, and this is considered to be a situation where complaints from business users are likely to arise.

Amazon, Apple, and Google have provided a certain level of explanation of the thinking behind the rules on returns and refunds and the status of their initiatives, and we expect that they take measures to improve business users' understanding and business predictability, such as by proactively providing easy-to-understand explanations to business users of their policies and initiatives regarding returns and refunds, and publicly announcing and explaining certain information regarding their return and refund records, and to enhance the process for filing objections.

In particular, we expect Amazon to take the following initiatives in the future, in light of the feedback from business users.

- i) Publicly announce and explain that the return conditions set by Amazon (including campaigns that are temporarily applied only to products for which FBA is used by the business users) have been appropriately set in advance, taking into consideration the impact on the business users and other factors in advance.
- ii) Actively provide easy-to-understand explanations of individual return decisions, return information, and efforts related to objections ((1) through (6) of the above explanations from Amazon), and promote the understanding of business users.
- iii) In the event that an objection is raised by a business user regarding Amazon's decision to return a product, to communicate sufficiently with the business user to ensure an appropriate resolution in accordance with the individual case.

- iv) Publicize and explain efforts related to compensation for returned goods, including an overview of the compensation system for returned goods, the thinking behind the level of compensation, and the actual results of compensation.

In addition, in light of the feedback from business users, considering the fact that Apple has set a relatively long period of "60 days" as a general rule to accept refund requests from users, we expect Apple to further promote efforts to prevent users from being unfairly disadvantaged, such as by enhancing explanatory responses and objection processes. For example, efforts to provide various tools, etc. that enable business users to obtain information on refunds (status of refunds, history of in-app purchases refunded by apps for customers, history of end users' in-app purchases, subscription status, consumption information, etc.) are commendable, and we expect that these efforts are proactively explained to business users in an easily understood manner, and will be improved while verifying their use.

(5) Factors determining the display ranking of products and apps, predictability of app reviews

① Factors determining the display ranking of products and apps

The display ranking of products and apps has a significant impact on sales of products, etc., and is of great interest to business users. The TFDPA requires specified digital platform providers to disclose key matters that determine the order in which products and other items are displayed (Article 5, Paragraph 2, Item 1(c) of the Act), and certain information has been disclosed by each company. In this respect, Yahoo is highly commendable for its efforts to help users better understand the "Recommended Order" by explaining in detail how the main items that determine the display order were extracted, and by itemizing them in a way that is as consistent as possible with the numerical values, etc. available to users.

We will continue to closely monitor how to ensure transparency and fairness in the display ranking of products and applications, including addressing concerns regarding preferential treatment of our own and affiliated companies.

■Amazon

- The system uses machine learning to determine search rankings so that consumers can more easily find the products they are looking for, and the system is constantly evolving to meet consumer needs. Various factors are considered in determining search rankings, including product information (product name, price, product description, etc.), availability of stock, and time required for delivery (see page 14 of the 3rd Monitoring Meeting [Ref. 3]).
- Since availability of stock, speed of delivery, and low selling price of products are also important considerations that are also emphasized by consumers, those factors are taken into account as major factors to determine the display ranking on the website (see page 9 of the Minutes of the 4th Monitoring Meeting).

■Rakuten

- The company believes that it have been able to indicate within the disclosure items regarding the main items used to determine the ranking (see page 27 of the 3rd Monitoring Meeting [Ref. 3]).

■Yahoo

- Regarding the main items that determine the display order of "Recommended Order", factors that have a large degree of influence on the order were extracted from approximately 120 factors, based on the policy that factors that can be used as a reference for business users that wish to improve their display order should be made available to the public. The items are itemized in a way that is as consistent as possible with the figures available in the store tools (number of customers, number of orders, number of reviews) and the scores disclosed as "store performance" (number of orders, average store rating score, etc.) to make it easier for vendors to make improvements (see page 43 of the periodic report summary).

■Apple

- The terms and conditions for ranking and finding apps in the App Store are specific, clear, and easy to understand. A website resource on this point ("Improving Findability in the App Store and Mac App Store") is also provided to the business users. For example, the article "Ratings, Reviews, and Responses" for business users includes additional information on app ratings. (See page 77 of the 3rd Monitoring Meeting [Ref. 3], page 77, and page 39 of the periodic report summary).

■Google

- It provides clear and detailed information on the main factors used to detect and rank apps on the Google Play Store. The Play Console website also provides additional information to business users on how to optimize their app store listing information and make it easier for users to find them when they search the Google Play Store (see page 121 of the 3rd Monitoring Meeting [Ref. 3]).
- In disclosing the above information, the goal is to provide enough information so that business users can understand how their apps rank on the Google Play Store. This will help business users understand the best way to get their apps found on the Google Play Store and help users find useful and quality apps that match their queries. However, providing too much information about how apps are ranked in Google Play could allow business users to manipulate (or "outsmart") the ranking rules to make them appear more relevant than they actually are. This would undermine the quality of Google Play to the detriment of users and business users. Therefore, it is necessary to balance these factors when disclosing the main factors used to detect and rank apps in the Google Play Store (see page 121 of the 3rd Monitoring Meeting [Ref. 3]).

② Predictability of app reviews

Regarding the app review process and system, some business users pointed out certain improvements, such as "reasons for rejection are now included in the app rejection notification email," "detailed explanations are provided when apps get stuck in the app review process," and "the consistency and speed of app review has improved compared to previous years." On the other hand, some pointed out issues regarding its predictability, fairness, and impartiality, and in response, Apple and Google provided certain explanations, as follows.

Where the predictability of app reviews affects the business activities and investment decisions of business users, we expect Apple and Google to continuously work toward improving the app review process while maintaining dialogue with business users.

■Apple

- With regard to the business users' request for pre-screening of apps, the concept of a pre-screening system is fraught with problems, and will only lead to increased screening time and other inefficiencies. Business users can use TestFlight to beta test their apps. Since TestFlight apps are also reviewed by App Review, business users can receive feedback from App Review during the development process (see page 69 of the 3rd Monitoring Meeting [Ref. 3]).

■Google

- To ensure fair and consistent application of Google's Developer Policies, Google Play reviewers will follow internal enforcement guidelines when reviewing apps submitted to Google Play. Enforcement decisions are stored in an internal tool and are referenced and periodically reviewed to maintain consistency throughout the company's quality assurance efforts. To ensure fairness and consistency of the assessment, the assessment team and assessors are educated and updated at a high frequency (see page 109 of the 3rd Monitoring Meeting [Ref. 3]).
- For apps that were initially determined to be in conflict with the policy, it has responded to discussions with industry associations and has taken measures to make it possible to continue distribution of such apps, taking into account Japanese laws and regulations, etc. (see page 11 of the periodic report summary).