

Opinions of the Monitoring Meeting

on the Transparency and Fairness of Digital Platforms

November 11, 2022

Note : This document has been translated from the following Japanese original document.

https://www.meti.go.jp/shingikai/mono_info_service/digital_platform_monitoring/pdf/20221111_1.pdf

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1. Introduction

1-1. Role of “Opinions of the Monitoring Meeting”

- Under the “Act on Improving Transparency and Fairness of Digital Platforms” (hereinafter referred to as the “TFDPA”), the Minister of Economy, Trade and Industry (hereinafter referred to as the “Minister of METI”) is to evaluate the transparency and fairness of specified digital platforms to be regulated and publicize the results of such evaluation.
- The “Monitoring Meeting on Transparency and Fairness of Digital Platforms” was held to hear the opinions of academic experts and other relevant parties in preparation for the above evaluation.
 - * Under the TFDPA, when the Minister of METI evaluates the transparency and fairness of a specified digital platform, the Minister may solicit the opinions of businesses and consumers that use the digital platform, academic experts, etc. (TFDPA Article 9, Paragraph 4)

This meeting is intended to play an important role in the framework of “Monitoring Review”, in which involved parties hold discussions and develop mutual understanding in order to improve the business relationship between the specified digital platform and business users.

- Discussions at this meeting have been based on feedback from businesses that use digital platforms, as well as reports and other information submitted by the specified digital platform providers.
- This document **presents an overview of the opinions expressed at the meeting.**
It is hoped that the opinions of this meeting will be fully considered during the Minister of METI’s Evaluation.

It is also hoped that the opinions of this meeting will lead to improved operations by specified digital platform providers, mutual understanding among market participants, and improvement of the business environment surrounding the specified digital platforms.

Cycle of Improvement by Specified Digital Platform Providers and Role "Opinions of the Monitoring Meeting" (Illustration)

- Evaluation of the conditions for transactions between the company and users
- Evaluation of the social responsibilities that the company should fulfill

- Development of basic philosophy
- Materialization of goals to be achieved

Conditions & Risks analysis

Goal-setting

Obligation to make efforts to voluntarily improve transparency and fairness on the basis of the Minister of METI's evaluation (TFDPA Article 9, Paragraph 6)

- ✓ **Mandatory submission of report including a self-evaluation (TFDPA Article 9, Paragraph 1)**
- ✓ **Evaluation by the Minister of METI (TFDPA Article 9, Paragraph 2)**
- ✓ **Framework for soliciting the opinions of experts, etc. for the evaluation (See TFDPA Article 9, Paragraph 4)**

Evaluation

- **Self-evaluation**
- **Evaluation by stakeholders**
- **Evaluation by the Minister of METI**

- Establishment of voluntary rules
- Establishment of organizational structure and recruitment of personnel
- Application of technology

System Design

Implementation

Impact of External Systems

- Provision of DP services
- Ongoing monitoring
- Handling of complaints from users

Impact on External Systems (Transparency & Accountability)

- Disclosure of information to stakeholders
- Submission of a report including self-evaluation (summary to be published by the government)
- Explanation at the monitoring meeting, etc.

<Provisions Forming the Basis for "Monitoring Review">

○Act on Improving Transparency and Fairness of Digital Platforms (TFDPA)

(e.g., submission of reports by specified digital platform providers, evaluations, etc.)

Article 9 **A Specified Digital Platform Provider must submit a report stating the following information to the Minister of Economy, Trade and Industry once annually** as provided by Order of the Ministry of Economy, Trade and Industry

- (i) Matters relating to an overview of the business of the Specified Digital Platform
- (ii) Matters relating to handling of complaints and resolution of disputes regarding the Specified Digital Platform
- (iii) Matters relating to the status of disclosure pursuant to the provisions of Article 5, Paragraphs (1) to (4)
- (iv) Matters relating to the measures to be taken pursuant to provisions of Article 7, Paragraph (1)
- (v) Matters relating to evaluations performed by the Specified Digital Platform Provider regarding the matters set forth in the preceding three items

(2) When the Minister of Economy, Trade and Industry receives a report submitted pursuant to the preceding paragraph, **the minister shall perform an evaluation concerning the transparency and fairness of the Specified Digital Platform, taking into consideration the Guidelines, based on the content of the report, facts reported pursuant to the provisions of Paragraph (1) of the following article, and other facts known to the minister.**

(3) When performing an evaluation prescribed in the preceding paragraph, the Minister of Economy, Trade and Industry shall consult with the Minister of Internal Affairs in advance.

(4) When performing an evaluation prescribed in Paragraph (2), the Minister of Economy, Trade and Industry **may seek the opinions of users, organizations organized by the users, persons with relevant knowledge and experience, or other persons deemed necessary by the minister.**

(5) The Minister of Economy, Trade and Industry must give public notice of the results of the evaluation performed pursuant to the provisions of Paragraph (2) along with a summary of the report referenced in Paragraph (1).

(6) A Specified Digital Platform Provider must endeavor under its own initiative to improve the transparency and fairness of its Specified Digital Platform based on the results of the evaluation public announced pursuant to the provisions of the preceding paragraph.

1. Introduction

1-2. Perspectives on the Evaluation of Specified Digital Platforms

- Specified digital platforms subject to regulation under the TFDPA, have become an important presence for a large number of store owners, developers, etc. to provide products and services to a large number of consumers. In addition, **because the operators of these specified digital platforms establish and operate the rules on the platforms, they have a significant impact on the business operations of many user businesses, and as such, there is a strong need for transparency and fairness in their business dealings.**
- In discussing the transparency and fairness of the specified digital platforms at the Monitoring Meeting, we focused on the following points.
 - (1) **Are the voices of businesses using the digital platform being taken seriously and addressed?**
 - ✓ **Attitude toward dialogue** for mutual understanding with user businesses
 - ✓ **In order to secure the trust of user businesses and society as a whole, is an explanation given not only of the rules on the platform and the company's initiatives, but also of the mechanisms, specific examples, and results that demonstrate the effective functioning of the platform, in a form that can be verified externally?**
 - ✓ **Are studies and improvements based on feedback from user businesses being conducted in an organized manner?**
 - (2) **Is an effective cycle for improving the operation of the digital platform in place?**
 - ✓ Attitude and track record of **ongoing improvement** evaluated highly
 - ✓ **Recognizing issues and indicating directions and goals for improvement** for the future is evaluated positively
- In our discussions, we were careful to **take into account the differences in business models and mechanisms of each digital platform, and we were aware of the trade-off between pre-emptive measures and after-the-fact responses.**
- This is also the first opportunity to discuss and evaluate the efforts of the specified digital platforms since the TFDPA went into effect. From the viewpoint of conducting **annual fixed-point observations** going forward, the discussion was oriented toward first **thoroughly ascertaining the current situation, and then presenting perspectives for discussion and evaluation (direction of improvement, expectations, etc.) for next year and beyond.** Furthermore, from the perspective of **supporting voluntary efforts** by digital platform operators, **examples of initiatives that are considered desirable** in light of the purpose of the TFDPA have been taken up.

2. Status of Fulfillment of Obligations under the TFDPA by Specified Digital Platform Providers (Generals)

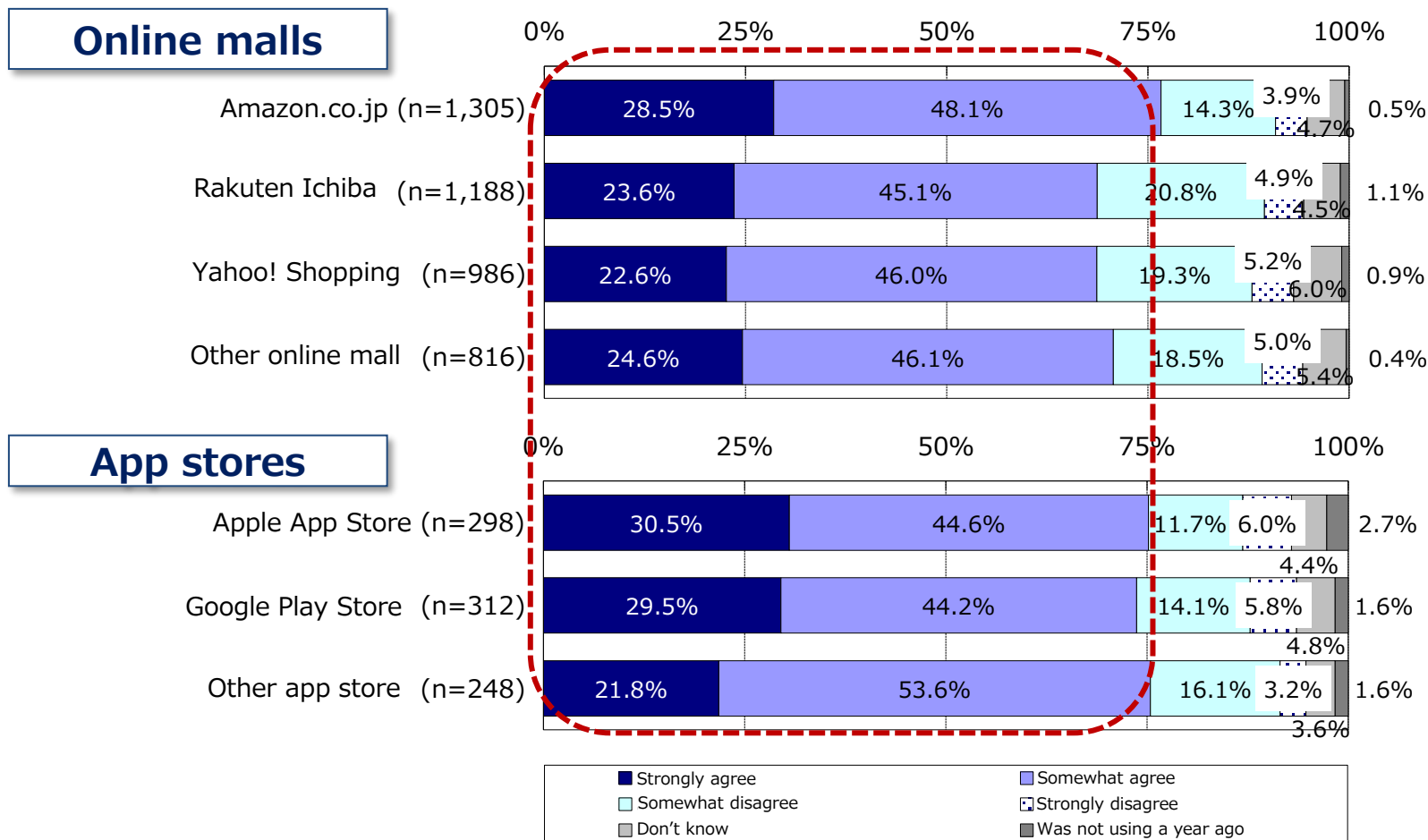
2-1. Status of Efforts under the TFDPA — General Evaluation

- The enactment of the TFDPA can be regarded as having brought about a general improvement in disclosure of terms of business by the specified digital platform providers. They also showed a positive attitude toward the development of systems for handling complaints and disputes.
- During the consultations, we were able to confirm the ideas and approaches of the specified digital platform providers through verbal communication. It was also beneficial to hear from them about ideas tailored to their respective business models.
- In the first "Monitoring Review" since the TFDPA came into effect, the specified digital platform providers responded sincerely to questions and hearings from the meeting, and such a cooperative attitude also commendable from the perspectives of promoting mutual understanding and the spirit of co-regulation.
- It is commendable that the transparency and fairness of the specified digital platforms have generally improved through the efforts of the specified digital platform providers and "Monitoring Review" since the TFDPA came into effect. On the other hand, as will be discussed below, there are also matters that may require further action. It is hoped that each specified digital platform provider will take a positive approach to this issue, taking into account the opinions of this meeting and the ministerial evaluation that will be released in the future.
- Some aspects of transparency have increased through the consultations. It is important that the meeting continue to work on improving mutual understanding among the parties involved and the transparency and fairness of the specified digital platforms in the coming year and beyond.

Reference: Status of Digital Platforms after the enactment of the TFDPA

- According to the results of a questionnaire survey conducted in December 2021, many user businesses feel that the response of online mall operators and app store operators has improved.

Q: Do you feel that, following the implementation of the TFDPA, the information disclosure and consultation services of online mall operators/app store operators have become more understandable, more polite or improved compared to one year ago?



2-2. Status of Disclosure of Terms of Business, etc.

[Disclosure of Terms of Business, etc.]

- In order to increase predictability for user businesses and reduce the number of complaints and consultations from user businesses, it is important to disclose and explain to users such as developers and store operators the terms of business in the usage agreement in an easy-to-understand manner.
- From this perspective, **it is a problem if important details are buried in a vast amount of information in the terms. Initiatives and ideas to disclose and explain information in a form that is easy for user businesses to understand** are required. Yahoo! and Rakuten are to be commended for their brief introduction of terms of business and other information for users on their websites. It is also essential to provide Japanese translations.

[Prior Notice of Changes to Terms of Business and Explanation of Reasons]

- When there is a change to the terms of business, it is important that this be explained and disclosed in an easy-to-understand manner. It has been pointed out that, when terms of business are changed, just presenting the revised terms makes it difficult for the changes to be understood. As such, Yahoo!'s efforts to present a table comparing the old and new terms are commendable.
- When changing the terms of business, it is important to ensure that user businesses have enough time to prepare for the change and to explain the reason and purpose of the change in advance so that the user businesses can provide their opinions on the change. According to the survey results, about 90% of the respondents answered that they were notified of changes in terms of business more than one month in advance. On the other hand, **there were some cases in which price changes were made 15 days after the notification of the change, which raises the question of whether the time frame took into account the impact on the user businesses. As such, a more effective dialogue process for changes in terms of business is required,** and we will closely monitor each company's response to changes in terms of business from this perspective.

[Response to Denial of Transactions]

*See Account Suspension and App Deletion Procedures (p. 15)

2-3. Status of Voluntary Procedures and Systems

- In the first report by specified digital platform providers since the TFDPA went into effect, a number of voluntary initiatives were reported. However, the following were identified as possible issues.
 - Many of the effects and improvements of the various initiatives were not clear. For this reason, during the consultation, it was requested that quantitative results and specific examples of improvements made be provided to demonstrate the actual operation and effectiveness of the initiatives.
 - We asked a variety of questions based on the feedback received from user businesses, but many of the answers were not clear in terms of awareness of the issues and future policies for improvement based on the user businesses' feedback. In this context, Yahoo!'s efforts to address this issue by setting forth a policy for future improvement through internal audits and a committee of outside experts were commendable.
- Some of the points were explained in more concrete terms through the consultations, which was useful in understanding and evaluating each company's efforts. However, **we were unable to conclude that enough information was provided to enable an objective evaluation of, for example, systems such as data management. We will continue to check the development of these systems and any improvements in the next year and beyond.**
- To this end, the following will be required in **reports to be submitted from next year onwards:**
 - **Presentation of initiatives and their effects in a form that can be verified externally.**
Provision of **supporting evidence** (e.g., results of internal or external audits) as the basis for such presentation
 - **Explanations of policies for improvements based on user businesses' feedback**Such explanatory responses **will be beneficial in securing the trust not only of user businesses but also of society as a whole.**
- From the perspective of ensuring the effectiveness of the various initiatives, **it is essential to develop a governance system** that includes a mechanism to allow management to identify issues faced by the front lines and link them to operational improvements, and to ensure that management's awareness of the issues filters down to the front lines.

In particular, **"in-country managers" are expected to play a role in communicating the views of the front lines and management's awareness of issues across the company, leading to operational improvements.**

For example, in cases where, even while applying global rules, if it is considered reasonable to also take Japanese business practices into account, it is appropriate to change the operation of the rules, and in such cases, the in-country managers can play a central role. From this perspective, Google's efforts to allow the handling of online crane games in Japan on the premise of consumer protection measures is highly commendable.

2-4. Status of Complaints and Dispute Handling

- At this meeting, a variety of information was provided by the specified digital platform providers through their reports and responses to questions about their complaint handling and consultation systems and consultation records. **The fact that the efforts of each company can now be evaluated objectively makes it possible to verify the status of improvements from the outside, and is a major step forward in gaining the confidence and trust of user businesses.**
- Although the actual figures reported by each company, such as the number of complaints, cannot be simply compared side by side due to differences in definitions used to compile the data, and business models, they can be used as an indicator for future evaluation of each company's efforts. **In the coming year and beyond, we will continue to monitor the situation regarding each company's handling of complaints and consultations and operational improvements, while also looking at actual numbers of complaints and other performance data.** In doing so, we will also check **whether the complaints and disputes service has been made known to the public.**
- In addition, there was a discussion on the pros and cons of standardized responses to complaints and consultations, and the need for individualized responses. While this is not a general rule given that providers have different business models, **ongoing efforts should be made to improve responses in light of the fact that there are some user businesses that end up giving up in frustration after only receiving standardized responses.**
- If there is a dispute with a user business regarding measures taken by a specified digital platform provider, and sufficient information cannot be disclosed to the user due to circumstances such as security measures, a problem may arise where the appropriateness of such measures cannot be objectively confirmed. In such cases, **it would be beneficial to use ADR (Alternative Dispute Resolution) at the request of the user business,** and it would be highly commendable if the issue of reasonable cost-sharing in such cases were also considered.

Main Opinions and Remarks from Committee Members and Observers (Status of Fulfillment of Obligations under the TFDPA: Generals) 1/3

[Status of Disclosure of Terms of Business, etc.]

- ✓ It can be said that obligations under the TFDPA are generally complied with. Certain progress has been made, including revision of web pages.
- ✓ It is questionable whether the information is disclosed and explained in an easy-to-understand manner. This must be clear and specific enough that user businesses can understand the content by reading it. The same applies to explanations of changes made to the usage agreement, etc.
- ✓ When the usage agreement is detailed and extensive, it is difficult to understand everything, especially for small and medium-sized businesses, and this can lead to problems in some aspects of business. From the viewpoint of informing user businesses of the minimum rules they need to know, it would be helpful to have an instruction manual that focuses on important matters, similar to the important matters manual for an insurance policy or the instruction manual for an electrical appliance.
- ✓ The lack of translated text for some of the rules and guidelines may be in violation of the TFDPA. Even if the arrangement is that this is not a condition of provision, it is problematic because it may be disadvantageous to developers and other user businesses.
- ✓ Regarding the method of announcing changes to the usage agreement, is it sufficient to simply post a notice on the portal site without giving individual notification?
- ✓ To make it easier for users to comment, some providers are taking steps such as setting up good/bad buttons, developing feedback cycles, and publishing responses from DPF providers in one place for other user businesses to see. There is a need for desirable initiatives to be considered.
- ✓ It is important not only to give one-way notification of changes, but also to promote two-way communication with user businesses, for example, by setting up a contact point for receiving opinions and questions, or by having DPF employees (consultants), who are in daily contact with individual user businesses, field questions.
- ✓ If employees give individual notice of changes, it is important that such employees understand the purpose of the TFDPA. In the coming year, I would like to examine the results of compliance training for employees.
- ✓ With regard to the advance notice period for changes to terms of business, I would like to see the period be long enough for user businesses to respond in light of specific circumstances, such as including consecutive holidays.

Main Opinions and Remarks from Committee Members and Observers (Status of Fulfillment of Obligations under the TFDPA: Generals) 2/3

[Status of Voluntary Procedures and Systems]

- ✓ There have been comments about improved responses, such as reports and answers to questions, and we are grateful for the earnest response from the DPF companies. For example, hiring in-country managers is said to be difficult in itself, and it is likely to also involve a significant strain in terms of salaries.
- ✓ Some companies explained their efforts in their business execution, compliance, and internal audit departments (Three Defense Lines), indicating that they are systematically addressing these issues as internal controls.
- ✓ I believe that it is important to ensure objectivity and neutrality not as a one-time act but as an overall framework, and I would like to commend Yahoo!'s efforts such as internal audits and third-party committees as an example of best practice.
- ✓ It is difficult to make quantitative evaluations based on the content of the explanations given. As such, it is not possible to judge whether initiatives are good or bad, especially from an economic perspective. It is also difficult to judge whether the companies' voluntary initiatives are good or bad because we are unable to see their actual operation and effects.
- ✓ We are unable to see companies' awareness of issues and future improvement policies developed based on feedback from user businesses. It is also unclear how the effectiveness of efforts toward transparency and fairness is being ensured.
- ✓ In evaluating the efforts of the companies mentioned in the report, I would like to request that they provide evidence. If there are internal control systems in place, they should confirm that the various initiatives are functioning. Examples of evidence could be the results of internal or external audits.
- ✓ It is important to establish governance structures that allow for ongoing improvements.
- ✓ There may be a disconnect between management and the front lines regarding complaint consultations. There needs to be a shared awareness.
- ✓ I hope that issues relating to the TFDPA will be shared from legal to the front lines, not only to be solved procedurally by the legal departments, but also to solve fundamental problems through creative solutions using the latest technology.
- ✓ The role of the in-country managers is important from the perspective of management taking up and resolving issues that arise in the field.

Main Opinions and Remarks from Committee Members and Observers (Status of Fulfillment of Obligations under the TFDPA: Generals) 3/3

[Status of Complaints and Dispute Handling]

- ✓ In view of the number of user businesses, one-size-fits all handling such as Amazon's makes a certain amount of economic sense.
- ✓ I question the stance of ensuring fairness and consistency through standardized responses.
- ✓ While it is inevitable that exchanges of standardized messages will sometimes end up in loops, it may be necessary to make efforts to detect such loops at an early stage.
- ✓ A mechanism whereby the consultation and inquiry response is terminated with a communication from the DPF side is favorable from a user viewpoint.
- ✓ It seems to me that a system that requires store operators to solve their own problems constitutes a shifting of responsibility. There is a world that DPFs can see precisely because of their individualized approach.
- ✓ If the consultation system is as described in the report, it would seem that consultations would not go through to the consultation service set up by METI, but in reality, consultations have been received. It may be difficult to understand the service instructions or the language in the form, or complaints may not be made due to withholding of sales proceeds. There is a need to check if effective operation is being undertaken.
- ✓ Is the complaints and disputes service not sufficiently well known to the public? When suspending an account, simply providing a hyperlink in an e-mail without any specific explanation seems not to be a sufficient response.
- ✓ ADR/ODR involving a third party should be made available in cases where a grievance consultation is not resolved through repetition of standardized phrases. There are similar initiatives on the consumer side.
- ✓ If due to security issues, it is difficult to disclose grounds for decisions such as account suspension, rejection in application review, or preferential treatment for provider companies, it may be handled through ADR.
- ✓ ADR and user business litigation is important in relation to enforcement of the European P2B regulations. Japan's TFDPA does not legally mandate the use of ADR, but the guidelines provide examples as recommendations, and it would be beneficial to encourage its use. Specifically, the usage agreement should include provisions on the use of ADR, and if a user business requests the use of ADR, the provider should respond to the request and bear the cost of doing so.
- ✓ In resolving issues with DPFs, the use of evaluation-based ADR, in which a third party evaluates the issues from a technical perspective after signing an NDA, is a possible solution.
- ✓ Given that the majority of the user businesses who seek consultation wish to remain anonymous, the obstacles to using ADR/ODR in a form that conveys the name of the business to the DPF may be difficult to overcome. The structure itself, in which the majority of user businesses seeking consultation wish to remain anonymous, needs to be improved.
- ✓ There may be some matters that are difficult for businesses to answer due to their relationship with trade secrets and circumstances that are changing on a daily basis with the use of AI. The evaluation would be made from the perspective of how much disclosure would be acceptable to the user business.

3. Discussion and Examination Based on Feedback from User Businesses (by Topic)

- Taking into account feedback from businesses that use digital platforms, this meeting compiled a list of questions and issues for confirmation for specified digital platform providers, and discussed them based on the responses from the companies.
- Of these, we have set out our views with a focus on the following topics, which were the subject of particular discussion.
 - (1) Account suspension and app deletion procedures (common to both online malls and app stores)
 - (2) Responding to concerns about preferential treatment for providers (common to both online malls and app stores)
 - (3) App store fees and billing methods (app stores)

<Feedback received from user businesses>

Note: The following is a summary of issues regarding which there were a relatively large number of inquiries and issues that could affect a large number of user businesses, based on the feedback from users received through the consultation service, etc. after April 2021.

For more information, see Document 2 from the second meeting

https://www.meti.go.jp/shingikai/mono_info_service/digital_platform_monitoring/pdf/002_02_00.pdf

Online malls

1. Returns-related
2. Operation of rules and guidelines
3. Account suspension-related
4. Complaint handling and consultation system
5. Product search rankings
6. Use of data by online mall operators

App stores

1. Fees and Billing Methods
2. Refund-related
3. App review-related
4. Account suspension-related
5. Complaint handling and consultation system
6. App display ranking, etc.
7. Use of data by app store operators

3. Discussion and Consideration Based on Feedback from User Businesses (by Topic)

3-1. Account Suspension and App Deletion Procedures

- **While the suspension of accounts and the consequent withholding of sales proceeds may be necessary to protect the interests of consumers and others, it is a measure that could have a significant impact on the business activities of store operators, developers, and others.** Major online malls and app stores, which are regulated by the TFDPA, are considered entities for which there is a particular need to increase the transparency and fairness of business dealings. While maintaining a balance with the protection of the interests of consumers and others, **the following policies should be adopted to ensure proper processes and seek ongoing improvements in responses.**
 - ✓ When suspending an account, the **necessity and appropriateness of the suspension shall be carefully judged**
 - ✓ When suspending an account, in principle, **specific reasons should be disclosed in advance such that the user business is able to file a substantive appeal**
 - ✓ **When it is found**, via an appeal from a user business, etc., **that an account has been wrongly suspended**, the provider shall **take actions that fully consider the interests of the user business**, such as promptly restoring the account and considering whether or not compensation is necessary
 - * When an account is suspended through the use of AI, it is important to enhance after-the-fact remedial measures on the premise that a certain percentage of errors will be made.
- In addition, **in order for third parties to be able to verify the appropriateness of account suspensions**, it would be beneficial to ensure transparency and fairness **by disclosing and explaining the number of account suspensions, appeals against such suspensions, and similar matters.** One possibility is to examine whether the withholding of payments constitutes a restriction on filing appeals. In this regard, Google's provision of objective figures to explain that the number of appeals has decreased as a result of issuing warning messages in stages before account suspension, as well as improvements to warning messages, is highly commendable. Yahoo!'s efforts to establish a system for internal, after-the-fact confirmation and verification of the appropriateness of decisions to remove stores, etc. based on the findings of internal audits, is also worthy of praise.
- In cases where the reasons for account suspension cannot be fully disclosed due to security or other reasons, it would be beneficial to take measures such as ADR (Alternative Dispute Resolution).
- The act of an app store operator **removing an app already provided from its store (app removal)** differs from the impact of removing a product from an online mall in that it has a significant impact on the business activities of the developer providing the app and also affects existing users of the app. **It would be highly commendable if, in certain cases where there are no concerns regarding security, etc., prior notice could be given so that the developer can have time to respond.**

Main Opinions and Remarks from Committee Members and Observers (Account Suspension and App Deletion Procedures)

[Account Suspension Procedures]

- ✓ There are examples where advance notice and notice of reasons for suspension have not been given, and abstract explanations that these cases are exceptions are not sufficiently clear. The reasons for account suspension should be explained in detail to the extent that the user business can make an appeal. From the viewpoint of encouraging voluntary improvement by user businesses, it is important to explain the reason for punitive actions in detail.
- ✓ It is also important to properly disclose the criteria for account suspension in advance. Such criteria can be used as a reference for discussion when appealing account suspensions.
- ✓ Regarding account deletion, exceptions may be made for security reasons, without advance notice being given. In particular, it is unclear what decisions have been made regarding accounts that have been removed for being associated with an offending account. The situation is such that even if the DPF provider is wrong, it cannot be remedied because transparency is not ensured. It is necessary to have a mechanism that allows a third party to verify decisions by DPF providers from a technical point of view.
- ✓ If it is difficult to disclose the reasons for an action due to security issues, ADR could be used.
- ✓ Some DPF providers give notice regarding withholding of sales proceeds at the stage of giving notice of account suspension, etc. Depending on the specific operation of the withholding of proceeds, there is a concern that this could have the effect of discouraging appeal procedures, which may take a long time. The withholding of proceeds should not be a circumstance that discourages appeals.
- ✓ Lack of a notice of reasons or additional measures that further damage user businesses, such as withholding sales proceeds, will hinder mutual understanding. I hope that each company will consider whether there is room for further improvement.
- ✓ AI is something that will produce a certain number of errors. When suspending accounts through the use of AI, it is important to minimize errors, but it is also reasonable to take measures such as human checks based on the assumption of errors, establishing a system for recovery (compensation), and establishing a dispute resolution procedure.
- ✓ What kind of compensation is being provided in the event that an appeal against account suspension finds that the DPF provider is at fault? Conversely, if an appeal by a user business is found to be spurious, what kind of penalties are there? It is important to clarify mutual benefits and penalties to create a healthy market.

[Deletion of Apps from App Stores]

- ✓ While the deletion of a listed product from an online mall will only prevent new purchases of the product in question, the deletion of an app from an app store will affect existing users, such as preventing users who are already using the app in question from using services within the app. Although advance notice of app deletion is not a legal obligation, there are cases where apps are deleted due to minor violations such as labeling. In keeping with the principle of proportionality, I would like to see consideration given to expanding the scope of advance notice. In this regard, the fact that Google responded at the consultation that it would consider this issue is commendable in terms of promoting mutual understanding and the improvement process.

3-2. Response to Concerns Regarding Preferential Treatment for Providers

- There have been numerous concerns from user businesses that provider companies may give preferential treatment to their own products and apps in terms of display rankings, data usage, and application of rules such as usage agreements. The TFDPA requires specified digital platform providers to disclose the details and reasons for any treatment that differs from that given to their own companies and affiliates, and the fact that **the companies provided some form of explanations to this meeting, including whether or not their own preferential treatment was given, is commendable from the standpoint of transparency.**
- Meanwhile, it was again made clear that **it is difficult to externally verify whether or not preferential treatment has occurred.** The information provided by Amazon and Rakuten, who explained that they do not engage in preferential treatment, and Apple and Google, who explained that they do not engage in preferential treatment in terms of app display rankings and data usage, was not sufficient to dispel concerns about the possibility of preferential treatment. Regarding data use, we could not confirm that there was no difference in data access conditions between the providers and other companies.
- The discussion then turned to various aspects of preferential treatment, including its definition, scope, pros and cons, and the reasons for it. For example, while in some cases preferential treatment of one's own company is acceptable, it has also been pointed out that such preferential treatment can significantly distort competitive conditions and is highly problematic from the standpoint of fairness. In fact, preferential treatment by major digital platforms is regarded as a problem internationally.
- **The first step is to establish a system to manage preferential treatment, including cases where such preferential treatment is not present, and to ensure in an externally verifiable way that no preferential treatment occurs.** In this regard, Yahoo!'s efforts to develop and publish a policy for managing conflicts of interest and preferential treatment, and to verify this policy through internal audits, are instructive. It is also helpful to note Rakuten's explanation that it reported no significant difference in the proportion of stores where violations were identified between its own/its affiliates' stores and the rest of the stores.
- The meeting also discussed the possibility that **even seemingly fair standards and treatment in terms of display ranking, etc., might result in preferential treatment of a provider or its affiliates.** It was also pointed out **that fairness in the criteria for selecting companies for preferential treatment, whether providers' own or other companies, could be an issue. It is necessary to examine these points in terms of whether there are any problems from a competition perspective.**
- **It is also necessary to consider enforceable intervention measures** for preferential practices that are problematic in terms of competition and **difficult to deal with under the framework of the TFDPA or existing laws and regulations.**

Main Opinions and Remarks from Committee Members and Observers (Response to Concerns Regarding Preferential Treatment for Providers) 1/2

- ✓ The fact that there was an explanation regarding the existence of preferential treatment is commendable. For mutual understanding, providers should explain that not only do they not give preferential treatment to their own companies, but also that they have organizational structures that prevent such preferential treatment from occurring. An explanation using evidence (e.g., audit results) is one possible option.
- ✓ A system that allows external evaluation of the actual situation at providers regarding preferential treatment is required. In other countries, there are moves to require action based on external audits, etc. to ensure compliance, while delving into the issue through evaluation of the effectiveness of systems, etc.
- ✓ When there is a reason behind preferential treatment by providers, such treatment might be acceptable. Business models where preferential treatment is a problem need to be set out and examined.
- ✓ In other countries, the details of court decisions and reasoning regarding preferential treatment differ from country to country. While it is difficult to evaluate from an academic point of view, discussions are underway regarding the development of a system. It is a difficult issue, but it would be good if we can talk about it objectively while also having academic discussions.
- ✓ There is an issue with Amazon's Buy Box showing the products of FBA-using businesses at the top of the list. In Europe, the selection of businesses displayed on Buy Box is unclear, and there are concerns about preferential treatment. Similarly, the issue of preferential treatment for Amazon products/companies has been raised with regard to priority sales opportunities for Prime members. There are also concerns about preferential treatment for FBA service providers.
- ✓ It is appropriate to apply how DPF companies are handling things overseas, such as Amazon's commitments in Europe, to Japan. If there is a difference in the situation in Japan, I would like to hear an explanation as to why.
- ✓ Amazon's FBA service is a paid customer service and delivery option, and I believe that as a result of the shorter delivery time, its products are selected and thereby ranked higher. The question is whether Amazon is explaining how this works in a way that user businesses can understand. Consumers often choose products with high search rankings, and for store operators, display rankings are a matter of life and death.
- ✓ They are often displayed on the same page as the regular search results listings, with an introductory field called "Highly Rated Amazon Brands." This appears to be preferential treatment in terms of labeling.
- ✓ As an e-commerce company originally, Amazon has a history of opening up its logistics system, which was originally developed for its own use, to the businesses that use it. Being a business, it appears likely that it will prioritize its own interests over those of other companies. However, it may mean that businesses that use FBA will be given treatment similar to Amazon's own in terms of display ranking, etc. Meanwhile, there have been many complaints from user businesses about returns, so there are issues in terms of mutual understanding.
- ✓ Although Amazon states that its search rankings do not distinguish between Amazon and other distributors, measures such as the use of purchase data to guide consumers may result in preferential treatment for Amazon.
- ✓ Rather than an algorithm being used to give preferential treatment, perhaps preferential treatment is arising as a result of external factors such as delivery time and availability?
- ✓ Regardless of whether it is the provider or another company that receives preferential treatment, the fairness of the criteria for selecting the companies is a potential issue. The explanation that companies that share the same philosophy as the DPF are given preferential treatment seems to be difficult for other user businesses to understand.
- ✓ In the case of app stores, even if they do not give preferential treatment to the store operator's apps in terms of display rankings, preferential treatment may be given to their apps by having them pre-installed.

Main Opinions and Remarks from Committee Members and Observers (Response to Concerns Regarding Preferential Treatment for Providers) 2/2

- ✓ Merely explaining that data use is prohibited is not sufficient. What are the safeguards to ensure that it is not used? I would like DPF providers to explain how they investigate preferential treatment and company-internal use of data, etc., in a form that allows objective confirmation of veracity. For example, a system could be built in which only a few people are given passwords for data access, and all access records are kept.
- ✓ Amazon manages seller-specific data and aggregate data separately and uses the latter but not the former, but that fact alone does not eliminate concerns regarding the practice of using user business data to sell new products. The treatment of purchaser data is also not clear.
- ✓ The issue of preferential treatment in the use of data, search algorithms, etc. requires enforceable intervention. Therefore, certain legal measures should be introduced for information disclosure.
- ✓ There are also shades of gray in how the use of data is handled. For example, the UK CMA's Google Privacy Sandbox case is an example of where parity in data use is being discussed. This parity consisted of two choices: 1) if the company uses the data, let other companies use the data, and 2) if the company does not let other companies use the data, then the company does not use the data. The latter was ultimately adopted. It is our understanding that the latter was chosen from the perspective of privacy and competition, although it makes it more difficult to innovate with data. I would like all options for data use and preferential treatment to be considered.
- ✓ The framework of the TFDPA includes provisions for requesting measures from the Fair Trade Commission. I understand that cases that are difficult to deal with within the framework of the TFDPA include cases that are difficult to deal with under the Anti-Monopoly Act.
- ✓ Given the difficulty of externally verifying companies' preferential treatment and data handling, I felt that there were shortcomings in simply submitting a report. An obligation to answer questions should also be considered.
- ✓ I suggest that going forward, consideration be given to requiring malls and app stores to develop and publish a conflict of interest and preferential treatment management policy, which has been mandated for specified digital platform providers in the digital advertising field.
- ✓ Because digital platform providers are in a position to create and implement rules on the digital platform, they will generally be able to conduct business as a first party in a more advantageous manner than user businesses. How are companies handling the possibility of being in a position to compete with user businesses in light of their own service models, and what are their basic approaches, along with specific examples?

3. Discussion and Consideration Based on Feedback from User Businesses (by Topic)

3-3. App Store Fees and Billing Methods

- For businesses that provide digital services for mobile devices for a fee, app store fees are a matter of critical concern, as they determine decisions regarding business feasibility and future investment. There have also been various international developments in this area, such as the passage of the Digital Markets Act in Europe, as well as lawsuits and enforcement of competition laws regarding issues such as the nature of fees and restricting billing methods, on the grounds that these are competition issues.
- **The fact that a certain amount of explanation was given at this meeting regarding the nature of the fees (i.e., that they are positioned as an app store usage fee rather than a settlement fee) can be appreciated as a first step.** However, with insufficient competition in terms of fees, the relationship between costs and fee levels is unclear, including whether the payment of fees distorts fair competition between user businesses and Apple, and whether the distinction between apps for which fees are charged and those for which they are not is reasonable. As such, **we are not yet in a situation where the understanding and acceptance of user businesses has been obtained.** Recognizing that, in the absence of sufficient competition, Apple and Google are entities that can determine rules at their discretion, **they should take measures toward achieving mutual understanding, such as fully explaining the relationship between costs and fees and how costs should be borne, and advancing discussions with organizations of user businesses, etc.**
- Regarding the point that, in effect, the only choice is in-app purchases provided by Apple and Google, it is commendable that Google has voluntarily taken steps to expand the options in Japan. In light of the comments that billing methods and related rules, such as the prohibition of external links, have become a constraint on the development of digital services, **the rule change to allow the selection of other companies' payment methods** carries a certain amount of significance. It is important that the rule change is **actually used by user businesses**, and we will closely monitor future trends.
- Note that even if a choice of payment methods is made available, it may not encourage competition in fee levels. **It is necessary to consider**, with reference to trends in other countries, **enforceable intervention measures for cases that are difficult to deal with under the framework of the TFDPA and existing laws and regulations.**

Main Opinions and Remarks from Committee Members and Observers

(App Store Fees and Billing Methods)

- ✓ It is my impression that some explanation of the approach to fee levels has been given. On the other hand, merely explaining that the level is the same as other companies does not suffice as an explanation that the level is appropriate. This issue is also the area where the demands from developers have been strongest. It is also necessary to consider the structure of the market, which forces the use of Apple and Google.
- ✓ I understand that the level of charges is to recover investment costs and to provide funds for further investment. On the other hand, the reasonableness of the 30% charge level cannot be determined from a competitive standpoint because, as a result of side loading, pre-installation, and the limitations of competing app stores and web apps, sufficient competitive pressure is not in effect.
- ✓ Regarding the reasonable level for fees, 30% is not too high if total revenue and total expenses match. I understand that the current situation comes under criticism because total expenses are vastly less than total revenues and revenues are used elsewhere. The revenues are used to pay for new ecosystem investments. If there is a commitment for current users of the ecosystem to receive the investment in the new ecosystem, users will be persuaded.
- ✓ It was also understood that without investments in operating systems, security, etc., app stores would not be able to fulfill their full potential, and as such, it is important to ensure that there is an opportunity to recoup the costs of these investments. On the other hand, the scope and level of charges may be a point of contention. Regarding the scope of in-app charges, Apple's report states that person-to-person services such as tutoring and medical consultation are not covered by in-app charges, while person-to-multiple people services are, but the rationale is not always clear. Both Google and Apple do not necessarily make a reasonable distinction between digital and physical services, where digital services are subject to in-app charges while physical services are not.
- ✓ Regarding app store fees, the key economic criterion is the price being charged in relation to costs. However, the answer we received on this occasion does not show any relationship between costs and price. The only areas where charges are currently made are the in-app payment function and the account registration fee, and it is unclear why there is no charge for per-app registration or review. With some user businesses paying for the maintenance of the ecosystem and others not, the framework may leave some user businesses unconvinced.
- ✓ Most of the apps on the App Store are third-party. If device sales are most important to Apple, then it seems likely that the costs of the App Store are being recovered through device sales. When considering fee levels for the App Store, there may be room to take into account the contribution that developers make to the App Store and thus to device sales.
- ✓ It was explained that Apple's vertical integration provides various advantages from an economics perspective, but it should also be clarified how the company intends to address the disadvantages of vertical integration (e.g., excessive concentration of profits, stifling of diversity, etc.). It is important to consider the balance between competition and privacy/security. It seems to me that the cost of vertical integration is being passed on to other user businesses.
- ✓ The reasons for restricting billing methods are not convincing. Steps are also being taken in South Korea and the EU to provide options.
- ✓ In the absence of competition in fee levels, it is important for consumers to be able to choose the means of payment. From this perspective, Apple's steps to allow external links for reader apps and Google's voluntary application of its User Choice Billing pilot program to Japan, thereby increasing billing options for apps other than games, are commendable. We will keep an eye on future developments.

3-4. Return and Refund Procedures, Predictability of App Review, Factors Determining Display Ranking

- This meeting also checked the efforts of each company to address issues related to returns and refunds, transparency and fairness in app review, and the order in which products, apps, and other items are displayed.
- Regarding return conditions and decisions on whether to accept returns on online malls, it was found that while Rakuten and Yahoo! leave the decision to the user businesses, on Amazon, the return conditions are determined by Amazon itself. Additionally, we found that when a user business uses the FBA service, Amazon determines whether or not to accept returns. In cases where specific platform providers themselves make the decision on return conditions and acceptance of returns, they must **explain the rules and enhance the appeal process** in order to gain the understanding and acceptance of user businesses. Similar action is also required with regard to app store refunds, as app store operators' decision-making on whether to accept refunds appears to be a source of dissatisfaction.
- While some users have pointed out certain improvements in the application review process and system, others have indicated the predictability of the process as an issue. Given that the predictability of application review influences the business activities and investment decisions of user businesses, it is hoped that **ongoing efforts will be made to improve the application review process**, while taking into account user business feedback.
- Regarding the display order of products and apps, the main factors that determine the ranking were explained, but it was not possible to grasp the thinking behind them in depth. **The display ranking of products and apps is also a matter of interest to user businesses, and we will continue to discuss and review this issue, including issues related to preferential treatment of providers.**

Main Opinions and Remarks from Committee Members and Observers

(Returns and Refunds, App Review, Display Rankings)

[Returns and Refunds]

- ✓ My impression is that some explanation of the rules and processes was given. How is the adequacy of said rules and processes then evaluated? The rules for returns and refunds lean toward consumer protection, but the question is how to protect the user businesses in this context.
- ✓ The return rules for FBA can be viewed as being similar in nature to sales outsourcing, and from that perspective, it cannot be said to be out of the ordinary. Amazon can be said to be responding as a seller, in which case the question is how to assume responsibility in relation to the consumer. The same goes for Apple. Efforts should also be made to ensure that user businesses properly understand the role of Amazon and Apple in this regard.
- ✓ Apple has set a long refund period of 60 days for consumers. Apple explains that this time frame is to comply with consumer legislation worldwide, but questions remain because we have been unable to identify any consumer legislation that allows refunds for 60 days or longer.
- ✓ Regarding Apple, it is commendable that improvements have been made with regard to the previous situation regarding refunds, such as measures to prevent double refunds, etc. I would like to see this information further communicated to user businesses.

[Predictability of App Review]

- ✓ There is not enough competitive pressure at work in app stores. I would like to see greater transparency in app review, with recognition of the company's own bargaining power over app developers.
- ✓ There has been improvement in terms of the explanations given for individual rejections of app reviews by Apple. On the other hand, rejections based on the criterion of not being "App-like" as stated in the guidelines would not only reduce predictability, but would also stifle diversity of values.

[Factors Determining Display Order]

- ✓ It was stated that the search rankings are carefully reviewed, but what are the specific examples of this? Does this involve looking at the machine learning logic or the processing results?
- ✓ Is there a need for a mechanism to verify in advance the impact of algorithm changes on user businesses?
- ✓ The problem lies in the fact that disadvantages resulting from algorithm changes related to ranking are not foreseeable. One idea could be to disclose the factors that determine ranking to the extent that possible disadvantages to user businesses could be foreseen.
- ✓ When using AI-based algorithms, it is impossible to verify the parameters at a given point in time, because they are constantly tuning their parameters, learning as they go. Rather than which parameters are emphasized, the important factors are how often parameter tuning is performed and whether there are corrections made with human involvement.
- ✓ Apple sometimes displays advertised apps at the top of the application display order, which could easily be mistaken for search results, and there are also concerns that this would favor their own advertising business. Therefore, a situation that may need to be investigated.
- ✓ Amazon's FBA service is a paid delivery option, and I believe that as a result of the shorter delivery time, its products are selected and thereby ranked higher. The question is whether Amazon is explaining how this works in a way that user businesses can understand. Consumers often choose products with high search rankings, and for store operators, display rankings are a matter of life and death.

4. Conclusion

- This meeting represents **the first "Monitoring Review" since the enactment of the TFDPA.** Discussions have been held with the aim of
 - (1) promoting the sharing of issues and mutual understanding among the parties involved, and
 - (2) improving the transparency and fairness of the specified digital platforms.

The fact that the specified digital platform providers provided a great deal of information and deepened the discussion among the parties concerned **was very valuable in continuing the review in the coming year and beyond.** Another significant outcome of the discussions was **confirmation that the efforts of each company and mutual understanding among the parties concerned within the framework of the TFDPA will contribute to the promotion of fair and free competition.**

- We hope that the specified digital platform providers **will work to improve the issues** that have come to light through the implementation of their obligations under the TFDPA and their responses to the "Monitoring Review", **and explain the details and results of their efforts in a form that can be verified externally.** As part of this process, **we would like to request that an action plan be developed and implemented** based on the opinions of this meeting and the evaluation by the Minister of METI to be released in the future, and **that the details and implementation status of the plan be included in the report with supporting evidence and explained during the next "Monitoring Review" process.**

The ongoing implementation of such initiatives will enhance the effectiveness of "Monitoring Review", improve the transparency and fairness of the specified digital platforms, and secure the trust of user businesses and society as a whole.

- On the other hand, **issues that may require further discussion,** such as concerns about preferential treatment and fees, were also identified. There are various international developments underway regarding these issues, and it is necessary to carefully refer to these trends **while considering how to respond to them in accordance with the Japanese market environment.**
- The co-regulation approach adopted by the TFDPA is a mechanism that is premised on voluntary and proactive efforts and explanations by the specified digital platform providers. **We expect the in-country managers of each company to play a central role in promoting voluntary efforts and explanations to external parties.**

In addition, **it is necessary to consider enforceable intervention measures for those issues that are difficult to resolve within the framework of the current TFDPA or existing laws and regulations.**

Main Opinions and Remarks from Committee Members and Observers

- ✓ The information received by the digital platform business consultation service was very useful in evaluating the efforts made by the specified digital platform providers. Going forward, it may be effective to collect such information more widely from the user business side and compare it with the information provided by the specified digital platform providers in order to grasp the actual status of their efforts.
- ✓ The content and methodology of the periodic reports submitted by the specified digital platform providers was found to be directly related to the efficiency of the discussions at the monitoring meetings. In this regard, Yahoo!'s periodic report was very easy to read and should serve as a reference for other companies.
- ✓ Presentation of the meeting's opinions will clarify matters to be closely watched in the future. On the part of the specified digital platform providers, I would like the in-country managers to take the initiative and make use of these opinions in their future efforts and reporting.
- ✓ The specified digital platform providers are first required to fulfill their obligations under the TFDPA, but new challenges are likely to emerge in the process of doing so. Identifying issues, including issues that are difficult to address immediately, is also an important endeavor in itself. It is best to find solutions to the issues discovered independently and to explain the details and results in a form that can be verified externally.
- ✓ I believe it is also necessary to verify that programs and algorithms work as described by the DPF provider.
- ✓ Although these consultations were conducted behind closed doors at the request of the specified digital platform providers, it would be helpful to consider holding the consultations openly as well, thereby increasing the transparency of the "Monitoring Review" process and the possibility of external verification.
- ✓ I am concerned that in conducting the "Monitoring Review", there may be limits to the amount of information that can be gathered by the companies on a cooperative basis. Although this was the first monitoring meeting, and I believe that the companies responded in good faith, there is no guarantee that they will continue to do so in the future. We should also consider measures such as making it mandatory to answer questions.
- ✓ In light of the basic principle of the TFDPA, which is that voluntary and proactive efforts by specified digital platform providers should be the norm, and that the involvement of the government should be kept to a minimum, it would be more appropriate to first of all evaluate the level of voluntary and proactive responses within the current framework, rather than forcing them to answer the questions.
- ✓ This meeting helped clarify what can and should be addressed by the TFDPA. In light of this experience, it may be possible in the future to specifically single out matters that should be addressed robustly through means other than "Monitoring Review".
- ✓ Advancing certain initiatives within the framework of the TFDPA serves as a preventive measure against actions that could cause competition problems, and this function of the act should be positively appraised. However, since the TFDPA may be more effective when used in conjunction alongside complementary measures, such measures should be considered concurrently.
- ✓ There have been major developments in the regulation of digital platforms in other countries and regions, such as the Digital Markets Act in Europe. These are the result of costly discussions, and can serve as a reference when considering the development of systems in Japan and the operation of the TFDPA.
- ✓ AI and data governance rules are being developed in the context of international cooperation, and it would be helpful if the details of these rules could be taken into account in the "Monitoring Review" process.
- ✓ While it is of course important to refer to overseas discussions, it is also necessary to present well thought-out measures that correspond to Japan's unique market environment.

Main Explanations by Specified Digital Platform

[Generals]

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2-1. Disclosure of Terms of Business, etc.

■ Rakuten

- A web page listing and briefly explaining the information to be disclosed under the TFDPA is available to the public (see report excerpt, p. 4).
- Explanations are also provided at events for service providers when changes that have a significant impact on service providers are made (see report excerpt, p. 16).

■ Yahoo!

- A web page summarizing and briefly explaining the information to be disclosed under the TFDPA is available to the public (see report excerpt, p. 42).
- Tables are provided showing the old and new versions of areas where changes have been made (see report excerpt, p. 25).
- Advance consultations are conducted with the user businesses that will be most affected (see 6th Meeting [Document 2], p. 5).
- A system has been established to gather feedback from store operators by providing a mechanism for posting Good/Bad reactions and comments in response to announcements from the online mall, as well as an inquiry form for store operators.

■ Apple

- 15 days' advance notice of changes to prices in the App Store pricing table (Tiers) was given.

■ Google

- Japanese-language videos explaining new policy changes have been released.

2-2. Establishment of Voluntary Procedures and Systems

■ Amazon

- In addition to setting various indicators and targets for the accuracy of suspension of listings and other individual measures, with their progress being monitored and scrutinized on a regular basis, progress is managed by identifying specific plans for improvement and setting specific targets for those in charge of each improvement. Furthermore, an independent team regularly audits the actions and decisions of the teams implementing suspension of listings and other measures (see report excerpt, p. 10).

■ Rakuten

- Meetings to gather opinions from outside experts are held on a regular basis, and the summaries of the proceedings, opinions of the experts, and details of improvement activities conducted on the basis of these opinions are disclosed on a portal site for user businesses (see report excerpt, p. 20).

2-2. Establishment of Voluntary Procedures and Systems

■ Yahoo!

- Specific explanations of improvements based on the findings of the internal audit (that systems and mechanisms are needed to handle and resolve complaints comprehensively, appropriately, and promptly) are provided (see report excerpt, p. 46).
- A specific policy was presented describing “maintaining transparency when giving preferential treatment to own-group-company stores” as an issue to be addressed going forward (see report excerpt, p. 42).
- The company holds discussion meetings with store operators in each region, and has a track record of making specific operational improvements based on the opinions of these meetings.
- All requests from store operators are recorded on a dedicated form, and all comments requesting operational improvements are circulated to the planning department. When improvements are considered and implemented, they are to be communicated to the store operators via the store tool.

■ Apple

- An explanation was given of an example where the guidelines for describing metadata in apps were updated based on input from user businesses (see report excerpt, p. 33).

■ Google

- It was explained that by improving the messages in the graded violation warnings regarding account suspensions, the number of appeals related to user businesses not understanding the reasons for account suspensions had been reduced by 70% (see 6th Meeting [Document 3]).
- A specific policy was presented describing “notifications regarding account suspension” as an issue to be addressed going forward (see 6th Meeting [Document 3]).
- An explanation was given of cases in which policies regarding the inclusion of authors in news apps were updated based on input from Japanese news organizations, among others (see report excerpt, p. 9).
- Regarding the changes to “The Google Play Policy on Gambling, Games, and Contests Involving Cash,” in response to discussions with a Japanese organization of user businesses that provide online crane game applications, a certification system and monitoring system have been introduced in cooperation with the organization as a pilot program to allow the continued distribution of such applications (see report excerpt, p. 10).

2-3. Status of Complaints and Dispute Handling

■ Amazon

- Of the complaints received from user businesses, approximately 74% were resolved in accordance with the wishes of the user business concerned (see report excerpt, p. 5).
- In order to respond to inquiries from user businesses in a consistent and prompt manner and provide high-quality support, a procedure manual has been shared that defines how to respond to various possible inquiries, and the personnel in charge respond in accordance with this procedure manual and other relevant documents (see report excerpt, p. 11).
- In preparing and using communication plans and notification text with user businesses in advance, the opinions of user businesses regarding the quality of communication are regularly reviewed, with improvements being made to the prescribed plans and texts (see 3rd Meeting [Document 3], p. 12).
- In addition to conducting communications in accordance with Japanese-language communication plans and notification texts, which have been carefully reviewed by native Japanese-speaking staff, the opinions of user businesses regarding the quality of communication are regularly examined to adjust the prescribed texts and ensure that communications are more in line with Japanese business practices (see 3rd Meeting [Document 3], p. 13).

■ Yahoo!

- In order to resolve complaints promptly, a manual has been established for typical types of complaints. Responses are made based on this manual, while individual cases are checked and answered as appropriate depending on the complexity of the case.
- All opinions from store operators received at the company's various contact points are recorded in an internal management tool so that the most appropriate department can reply to the store operators, as well as enabling the efficient sharing of knowledge.
- The results of questionnaires conducted by the help desk (85% of respondents indicated satisfaction) were explained in detail (see report excerpt, p. 6).
- Explanations were given on the number of comments received from user businesses, etc. (approximately 421 in FY2021) and the number of cases that resulted in functional improvements (76), and the user businesses were given a visualization of the results (see 3rd Meeting [Document 3], p. 36).

■ Apple

- Apple reviews, investigates, and evaluates complaints received via the complaint form it established in conjunction with the implementation of the TFDPA. These are reviewed and evaluated by a cross-functional team of experienced, highly trained, and designated experts from a variety of disciplines, and individual responses are given to the results (see 3rd Meeting [Document 3], p. 76).
- The number of complaints filed was 3 (see report excerpt, p. 3).

2-3. Status of Complaints and Dispute Handling

■ Google

- A specific explanation was given regarding the percentage of complaints and disputes from user businesses that resulted in Google's decision being upheld (approximately 25%), etc. (see 6th Meeting [Document 3], p. 5).
- The company operates its own complaint and consultation service.
- Channels have been established to collect feedback from user businesses on issues and concerns regarding the operational framework of the Developer Outreach Program, etc. (see 3rd Meeting [Document 3], p. 118).
- A new communication channel has been established with the Mobile Content Forum (MCF), an industry association of mobile developers to which METI has entrusted the operation of the Digital Platform Consultation Desk (DPCD), and exchanges of views are taking place with user business associations.
- Complaints and feedback received through various channels are taken into account when updating policies (see 3rd Meeting [Document 3], p. 118).

3-1. Account Suspension and App Deletion Procedures

■ Amazon

- In implementing account suspension measures, the company has developed written procedures that specifically describe the implementation of the measures to ensure their consistency and fairness. Those written procedures are scrutinized and approved by an appropriate member of the Worldwide Selling Partner Services management team to ensure that the interests of individual stakeholders are adequately protected. When introducing new measures to user businesses, short-term trials and phased-in implementation are conducted before full-scale implementation to ensure that the conditions for implementing the measures are functioning as envisioned and that a sufficient level of accuracy is achieved (see 3rd Meeting [Document 3], p. 10).
- Regarding communication when implementing account suspension measures, a notice is sent to the user business that includes the reason for implementing the measures, the targeted actions (including the products subject to the measures), the amount of sales proceeds to be withheld (if any) and the period of time of such withholding, and contact information if the user business wishes to make an appeal. In order to maintain consistency and fairness in communication, the text is examined and approved in advance by an appropriate member of the management team and confirmed by the Japanese Legal Department as being in compliance with the applicable laws and regulations (see 3rd Meeting [Document 3], p. 10).
- In determining whether the suspension of an account falls under one of the exceptions to the disclosure requirements of the TFDPA, a careful and detailed review is conducted by the Japanese Legal Department to ensure that there are reasonable grounds for the decision (see 3rd Meeting [Document 3], p. 10).
- When a user business appeals against an account suspension, the team that implemented the suspension will investigate again, carefully review the details, and if deemed appropriate, restore the account to its status before the action was taken. Target timeframes are set to ensure prompt response to appeals. For cases involving complicated circumstances, etc., personnel with sufficient experience and ability will be assigned to analyze and respond to the case to ensure that appropriate action is taken (see 3rd Meeting [Document 3], p. 11).
- If, in the course of responding to an appeal, it is confirmed that a measure would be incorrectly applied under certain circumstances, the conditions under which the measure in question is implemented 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 such measures in a variety of ways. The appropriate functioning of the implementation conditions for individual measures is managed by closely examining various indicators and opinions received from user businesses, and a mechanism is in place to link these indicators and opinions to operational improvements (see 3rd Meeting [Document 3], p. 11).

3-1. Account Suspension and App Deletion Procedures

■ Rakuten

- When suspending accounts, fair and careful review is conducted by a council of relevant departments in accordance with specified internal processes (see 3rd Meeting [Document 3], p. 24).
- In cases where it is impossible to determine from the page whether or not a product or action is prohibited, careful judgment is exercised, such as by asking the user business to submit a written response and confirming the facts before recognizing the action as a violation (see 3rd Meeting [Document 3], p. 24).
- When suspending accounts, notification is given of the underlying agreement guideline clauses and reasons (the product/action in question and the reason why the product/action in question is problematic) (see 3rd Meeting [Document 3], p. 24).
- When pointing out violations, etc., if the user business has an objection to the details of the findings and makes contact to that effect, they will be notified that a decision will be made based on the content of the findings. In addition, when opinions, etc. are received from user businesses, they are listened to and specific actions are taken on an individual basis (see 3rd Meeting [Document 3], p. 24).
- When Rakuten suspends an account, a panel of related departments reviews the action and, in cases where it is not possible to determine whether the action is a violation at first glance, confirms the facts by submitting a written response before declaring it to be a violation.

■ Yahoo!

- When Yahoo! removes a store, it sends out an email containing not the relevant provisions of the guidelines, etc., but also information such as the specific conduct deemed problematic, the reason why, and the date of the violation. A sample of the text of said email has been made available (see 3rd Meeting [Document 3], p. 34, report excerpt, p. 30).
- Based on the findings of internal audits, an internal system was established and launched to conduct after-the-fact verification of the appropriateness of decisions to suspend or remove stores on a quarterly basis (see 6th Meeting [Document 2], p. 4, report summary).

3-1. Account Suspension and App Deletion Procedures

■ Apple

- Apple is reluctant to remove any app from the App Store unless absolutely necessary. In fact, in many cases, problems are resolved by communicating with user businesses while continuing to distribute the apps on the App Store, for example, by encouraging them to correct the problematic areas in the next update (see 3rd Meeting [Document 3], p. 72).
- Regarding the reasons disclosed to user businesses when suspending accounts, the legal team always asks the review team to “strike a balance between future compliance issues and providing enough information for the user business to take appropriate corrective action.”
- Apple has released a sample of the notice sent to user businesses when an account is suspended (see 5th Meeting [Document 2], p. 20).

■ Google

- If a user business’s app violates Google’s policies, Google will provide the user business with information about the enforcement action taken, along with instructions on how to appeal such action. In many cases, the user business resolves the problem on its own by making the necessary corrections based on the detailed information and screenshots of the violation provided by Google Play.
- Regarding the reasons disclosed to user businesses when suspending accounts, the assigned member of the legal team always asks the review team to “strike a balance between future compliance issues and providing enough information for the user business to take appropriate corrective action.” (By improving the content of violation warnings, a 70% reduction in objections related to a lack of understanding of the reasons for account suspension was achieved.) Google also updated the relevant account suspension notices to make it easier for developers to understand them, reducing objections related to misunderstandings of the reasons for account suspensions by 18%.
- In response to consultations with industry associations on apps that were initially determined to be in violation of the policy, and in light of Japanese legislation and other factors, the company has taken measures to allow the continued distribution of the apps in question.

3-2. Response to Concerns Regarding Preferential Treatment for Providers

[Measures against Violations]

■ Amazon

- Regarding actions 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 usage agreement) are applied regardless of whether the seller is Amazon or a user business. The tool used to implement these measures is not equipped with a function to identify the seller of a product, and the tool itself has specifications to prevent preferential treatment for the provider in relation to measures such as suspension of listings (see 3rd Meeting [Document 3], p. 9).
- Although Amazon and user businesses are subject to the same policies regarding actions to be taken against accounts, the operational rules may vary depending on the nature of the violation by the user business and the level of risk of repeated violations of the usage agreement. For example, a user business that has a history of violating the usage agreement in the past or a user business that mainly sells products that frequently violate the usage agreement may be judged as a high-risk case, and in order to protect consumers and trustworthy user businesses, measures against such accounts may be implemented earlier than for low-risk user businesses or Amazon's direct sales business (see 3rd Meeting [Document 3], p. 11).

■ Rakuten

- Rakuten does not take any special actions regarding temporary suspension of service, total rejection (account suspension, etc.), etc., on the grounds that a store is a Rakuten store.
- Corroborating the above policy, there is no significant difference between stores operated by the company or its affiliates and other stores in terms of the ratio of the number of stores with violations cited to the number of stores opened (from January 1, 2021 to May 30, 2022).

■ Yahoo!

- With regard to measures taken against violations, "preferential treatment for own-group companies" is defined as "not taking punitive action in cases where punitive action would be taken if the store in question were not a Yahoo! store," and this kind of preferential treatment is not to be given.
- In order to objectively guarantee and explain the above policy, Yahoo! does not distinguish between its own group company stores and others in the process of detecting violations of the guidelines, and "preferential treatment for own-group company stores" is subject to internal audits. It has also actually taken measures such as product deletion and store removal against Yahoo! group company stores.

3-2. Response to Concerns Regarding Preferential Treatment for Providers

[Display Ranking for Products and Apps]

■ Amazon

- Amazon's primary goal regarding the display of search results is to make it easy for consumers to find the products they seek, and Amazon's mechanism for searching for products does not take into account whether the seller of the product is Amazon or a user business (see 3rd Meeting [Document 3], p. 14).
- The mechanism for determining display ranking is carefully reviewed in terms of whether it improves the consumer's shopping experience and whether it is properly implemented technically. 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 a product is Amazon or a user business is not taken into consideration (see 3rd Meeting [Document 3], p. 14).
- On Amazon.co.jp, a product page is created for each product, and when multiple sellers are selling the product in question, one seller's listing (Recommended Listing) is displayed near the top of the product details page, allowing the buyer to "Buy Now" with a single click or to add the product to their shopping cart.
- In order to promote sales of products by user businesses, specific products may be displayed as "recommended products," etc., separately from search rankings.

■ Rakuten

- There is no preferential treatment of any particular product or store with respect to the display ranking of products in the search results.
- As an effort to ensure the above policy, an internal system has been established for smooth performance of business, and a new organization, the "Commerce Liaison Office," consisting of staff members in charge of creating rules for Rakuten Ichiba and qualified legal practitioners, etc., has been established to handle compliance with the TFDPA under the supervision of a business administrator. However, the details of efforts to address concerns regarding preferential treatment for the company have not been made clear.
- In addition to search results, the company 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. However, Rakuten does not treat first-party stores (i.e., direct sales operations of Rakuten or its affiliates) differently than usual on the grounds that they are first-party stores (Rakuten provided specific details on the percentage of first-party stores in the stores covered by several campaigns in this regard).

3-2. Response to Concerns Regarding Preferential Treatment for Providers

[Display Ranking for Products and Apps] (Continued)

■ Yahoo!

- Yahoo! has established and disclosed a management policy regarding conflicts of interest and preferential treatment of its own companies in its online mall operations, as well as clearly indicating the contact information for inquiries, aiming to provide an opportunity for mutual understanding between the company and its user businesses.
- Yahoo! explained that it recognizes the importance of “maintaining transparency when giving preferential treatment to group company stores,” i.e., making it clear to user businesses which stores are affected by the preferential treatment. As an effort to address this issue, in addition to the previous explanation that preferential treatment may be implemented in some cases, the specific names of the stores in such cases were disclosed.
- Whether “the company’s system for checking for preferential treatment is functioning and whether it is being understood as a result of information disclosure” remains an issue to be addressed in the future, and the company intends to “constantly review its system for checking and information disclosure going forward.”

■ Apple

- Apple does not practice preferential treatment in the display of its products (see 3rd Meeting [Document 3], p. 76).

■ Google

- Google has disclosed that all apps are publicized in the Google Play Store according to the same principles and that no preferential treatment is given to the company’s apps in terms of display in the Google Play Store.

3-2. Response to Concerns Regarding Preferential Treatment for Providers

[Use of Data]

■ Amazon

- The company has an internal “Seller Data Protection Policy” that restricts the use of specific data related to user businesses, and has established standards for the handling of two types of data related to user businesses (“seller-specific data” and “aggregate data”). “Seller-specific data” refers to non-public information and confidential information regarding a specific user business, and “aggregate data” refers to all non-public data that is not unique to a specific user business (see 3rd Meeting [Document 3], p. 15).
- It is prohibited to use “seller-specific data” with respect to decisions on price, procurement quantity, and inventory quantity in the direct sales business. In making decisions regarding the launch of private label products, Amazon will use data obtained from a number of data sources, including publicly available information such as private labels provided by competing retailers and trends discussed in trade journals, etc., but will not use “seller-specific data” (see 3rd Meeting [Document 3], p. 16).
- The “aggregate data” is made available internally for legitimate business purposes (e.g., to recommend actions to sellers, to improve the quality of analyses, etc.) (see 3rd Meeting [Document 3], p. 16).
- User businesses are provided with access to information about their sales activities in the Amazon store and certain aggregated information, as well as a dashboard that recommends solutions for using the aggregated information to increase sales. In addition, detailed “bestseller rankings” for all products sold in the Amazon store are available on a page that can be viewed by anyone without being made confidential information (see 3rd Meeting [Document 3], p. 15).

■ Rakuten

- “Individual sales data of specific store operators” is not used for the benefit of third-party stores (including first-party stores), except in the following cases: (1) when EC consultants make proposals to specific store operators to improve sales, using and analyzing the data to understand the specific store operator’s situation and produce more accurate proposals; or (2) when, with the approval of the specific store operator concerned, the situation of a specific store operator and examples of their successes are discussed and shared in PR magazines for specific store operators and at events for specific store operators.
- “Rakuten Ichiba overall market data,” which aggregates the sales data of individual user businesses, may be analyzed by EC consultants in order to produce proposals for improving the sales of specific store operators. “Rakuten Ichiba overall market data” is also provided to user businesses through a free data analysis feature (R Karte).
- If the company determines that disclosure will contribute to the expansion of Rakuten Ichiba’s total circulation, it may disclose “Rakuten Ichiba overall market data” and other information to specified store operators after concluding confidentiality agreements, etc. However, even in such cases, “individual sales data of specific store operators” will not be disclosed to other store operators (including first-party stores).
- Information obtained under store operation agreements, such as information on a user business’s suppliers, will not be used in sales activities to encourage said suppliers to open a store or sell products on the platform.
- The above-mentioned “Commerce Liaison Office” has been established, and in order to ensure that the use of data is in accordance with the privacy policy, internal regulations, and applicable laws and regulations, a review process has been established for new data use, etc., under the supervision of the compliance officer.

3-2. Response to Concerns Regarding Preferential Treatment for Providers

[Use of Data] (continued)

■ Yahoo!

- The use of “Yahoo! Shopping overall market data (aggregated sales data of individual store operators)” is provided to partner manufacturers under confidentiality agreements so that manufacturers affiliated with Yahoo! can check the state of sales for their products and other information. “Aggregated data” refers to statistical data compiled from the sales data of multiple store operators, and this process makes it impossible to identify individual store operators.
- “Sales data of individual store operators” is used by sales staff to prepare accurate proposals tailored to the circumstances of individual user businesses when making proposals to improve sales, to provide Yahoo! services such as recommendations and search rankings, to improve services, and to consider new services.
- A data administrator independent of the sales division is appointed to determine whether the data can be used from a neutral perspective. When new data is used, a process is in place for the internal data manager to determine the suitability of such use, after which the data is used by the sales division in accordance with internal guidelines.
- Yahoo! has established and disclosed a management policy regarding conflicts of interest and preferential treatment of its own companies in its online mall operations, as well as clearly indicating the contact information for inquiries, aiming to provide an opportunity for mutual understanding between the company and its user businesses.
- In some cases, Yahoo! may give preferential treatment to its own group stores, but this practice has been disclosed, and a policy for managing such preferential treatment has been voluntarily developed and published.
- After explaining future issues regarding preferential treatment for its own group stores, the company indicated its intention to conduct ongoing reviews of this practice.

■ Apple

- Due to the nature of the platform’s business, Apple is in a position to have access to information about apps before they are released to the public. Although Apple will not abuse such information to give itself preferential treatment or for its own business plans, there could be cases where it plans to do similar business coincidentally. If Apple were to be bound by unforeseen confidentiality restrictions in such a case, this could pose a disadvantage to its own business, and this is why 9.3 of the Apple Developer Program License Agreement must be in place (see 3rd Meeting [Document 3], p. 80).
- Apple’s data analysis team centrally manages access to App Store data and has established a process to prevent access to data unless the necessary approval is obtained in advance (see 3rd Meeting [Document 3], p. 80).

■ Google

- A formal policy is in place that prohibits the company-wide sharing of “non-public and identifiable data about third-party developers” with respect to the data Google Play collects from users when they interact with apps on Google’s platform.
- Under the above policy, sharing “non-public and identifiable developer data” with developers of Google apps to give them an unfair advantage, or using it for any purpose other than to benefit the Google Play ecosystem (for example, to develop features to prevent abuse), is prohibited.

3-3. App Store Fees and Billing Methods

■ Apple

- The fees paid are not payment processing fees, but rather, more broadly, a means for Apple to obtain compensation for operating the App Store (see 3rd Meeting [Document 3], p. 44).
- Apple provides access to technology platforms, tools, software, and other resources (including marketing support) to user businesses at a very low cost. Moreover, Apple has invested billions of dollars to grow its ecosystem, providing tools, software, and technology to make it as easy as possible for user businesses to make their own ideas a reality on the iPhone. In consideration of this extensive support, 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 user businesses and content providers (sellers). This shows that Apple's fees have been in line with prevailing practices in the market from the beginning (industry standard levels).
- The fees charged by Apple are continually being reduced, and they have never been increased. This may be considered proof that the fees are fair (see 3rd Meeting [Document 3], p. 46, p. 47).
- Apple does not pay any fees to itself for its own content in its own apps. Economically, the fact that there are no payments to Apple from Apple's own apps is an example of how a vertically integrated firm can eliminate double marginalization. As has been widely recognized in competition law, this feature of vertically integrated firms fosters competition, just as the entry of more efficient firms is beneficial to consumers. As such, it is clear 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 3rd Meeting [Document 3], p. 48).
- In-app charges fulfill two core functions in the App Store, and if a user business adopts a mechanism other than in-app charging, then neither function can be fulfilled. First, in-app charges are a mechanism for Apple to collect fees. If Apple's fees are charged for App Store transactions between user businesses and iOS users, these transactions are handled through in-app charging. In-app charges are simultaneously a technical mechanism to ensure that Apple is able to collect fees on qualifying sales by user businesses in the App Store. Second, in-app charging 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 payments for which fees are paid to Apple (see 3rd Meeting [Document 3], p. 51).
- Following the Japan Fair Trade Commission's review of the antitrust case, Apple implemented remedial measures such as allowing out-links for reader applications in the music distribution sector, etc.

3-3. App Store Fees and Billing Methods

■ Google

- The fees paid are not payment processing fees. Google makes ongoing investments in Android and Google Play (including investments in services and tools provided to developers and users) through service fees paid by a subset of developers.
- We believe the level of the service fees is appropriate and reasonable. These fees are comparable to 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 user businesses and consumers, (b) the costs Google incurs to develop, maintain, and improve the Google Play ecosystem, and (c) the competition from many other app stores and other distribution channels available to user businesses and users on Android or on other operating systems.
- The same policies apply to Google's own apps as to user businesses, including the level of fees paid to Google and, in principle, the use of Google Play's charging system for in-app purchases of digital goods.
- Google's Payments Policy is the result of careful consideration that balances the interests of all key stakeholders in the Google Play ecosystem, including user businesses, users, and Google Play itself. In this regard, prohibiting out-links to alternative payment options accomplishes 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 enable malicious parties to direct users to potentially fraudulent third-party payment options. Second, it allows Google to charge service fees to user businesses more efficiently.
- Google has announced its intention to apply the User Choice Billing pilot program to Japan (not only to countries and regions where it is required by law) and to increase the number of charging options for non-game apps on a trial basis.

3-4. Return and Refund Procedures, Predictability of App Review, Factors Determining Display Ranking

[Return and Refund Procedures]

■ Amazon

- For the convenience of customers, the entire site is considered to be one store, and as a general rule, Amazon requires that standardized return conditions be applied.
- Fulfillment by Amazon (“FBA”), an optional paid service that handles inventory storage, shipping, and customer service operations on behalf of user businesses, allows Amazon to make the primary decision regarding returns for products for which user businesses use FBA and allows user businesses to file appeals against Amazon’s decisions (see 3rd Meeting [Document 3], p. 6).
- The following procedures are used to handle individual return decisions and appeals with respect to products sold by user businesses using FBA:
 - (i) The condition of returned goods is checked using a prescribed checklist
 - (ii) The user business is notified by email of the customer’s return request
 - (iii) Information is provided to the user business on the portal site (Seller Central) regarding the reason for the return selected by the customer
 - (iv) The user business may request that Amazon send the returned goods back to them in order to investigate the condition of the goods themselves
 - (v) In the event that the user business files an appeal, the staff member in charge of the department handling the return of FBA merchandise will contact the user business individually to review the appeal and check the supporting evidence, ensuring that an appropriate conclusion can be reached in each case
 - (vi) If the user business is not satisfied with Amazon’s response to their appeal, they may file a further appeal by contacting Amazon by mail, etc. (see 3rd Meeting [Document 3], p. 6–8).
- Among user business appeals against Amazon’s decisions on returns, the percentage of cases in which Amazon accepted the user business’s claims does not differ significantly from that in the case of general appeals.

■ Rakuten/Yahoo!

- User businesses are allowed to set the terms and conditions for returns and to make decisions regarding individual returns.

3-4. Return and Refund Procedures, Predictability of App Review, Factors Determining Display Ranking

[Return and Refund Procedures] (continued)

■ Apple

- By establishing consistent refund terms and processing consumer refunds when the original transaction was made through Apple's in-app charging system, end users are offered the convenience and security of having a consistent source and process available for payments and refunds (see 3rd Meeting [Document 3], p. 57).
- 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 3rd Meeting [Document 3], p. 59).
- As an initiative that takes into consideration the interests of user businesses, the company provides various tools that allow user businesses to obtain information on refunds (refund status, history of in-app purchases refunded by the app for the customer, end-user in-app purchase history, subscription status, consumption information, etc.) and to provide information to Apple (information such as whether the purchase was consumed, whether the purchase was delivered and properly functional, and whether a free trial of the content, samples or information about the content were provided prior to purchase), with the consent of consumers, when they request refunds for in-app purchases of consumable items (see 3rd Meeting [Document 3], p. 58–60, p. 63, p. 64, p. 66, p. 67).

■ Google

- The Google Play refund policy is intended to balance the interests of users and user businesses. Users are allowed to make refund requests to Google within 48 hours of a purchase. 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 user business may not appeal against refunds processed by Google. Conversely, for refunds after 48 hours, the regulations encourage users to request refunds from the user business, and allow the user business to set its own refund conditions and make its own individual refund decisions.
- The rules regarding refunds reflect Google's efforts to balance the interests of users and user businesses (see 3rd Meeting [Document 3], p. 98, p. 99).
- In terms of initiatives regarding refund decisions made by Google, when, for example, a friend or family member makes an accidental purchase, or when a purchase was made without the consumer's consent, refunds are usually approved by Google Play. On the other hand, Google cannot issue refunds to consumers who abuse the refund system (for example, by giving their account or payment information to others).

3-4. Return and Refund Procedures, Predictability of App Review, Factors Determining Display Ranking

[Predictability of App Review]

■ Apple

- Regarding user business requests for advance review of apps, the concept of an advance review system is fraught with problems and will only lead to increased review time and other inefficiencies. User businesses may use TestFlight to beta test their apps. TestFlight apps also undergo App Review, so user businesses can receive feedback from App Review during the development process.

■ 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 across Google's quality assurance efforts. To ensure fairness and consistency in reviewing, the review team and assessors will receive frequent education and updates.
- In response to consultations with industry associations on apps that were initially determined to be in violation of the policy, and in light of Japanese legislation and other factors, the company has taken measures to allow the continued distribution of the apps in question.

[Factors Determining Display Ranking]

■ Amazon

- Machine learning is used to determine search rankings so that consumers can more easily find the products they are looking for, and the system is constantly evolving to better meet consumer needs. Various factors are taken into account to determine the search ranking, such as product information (product name, price, product description, etc.), availability of stock, and time required for delivery.
- Since availability of stock, speed of delivery, and low selling price of products are also key considerations that consumers place importance on, these are major factors that are taken into account when determining the display ranking of a product on the site.

■ Rakuten

- We believe that our disclosure is sufficient to indicate the key issues used to determine rankings.

■ Yahoo!

- The main items that determine the ranking of the "Recommended Order" were extracted from approximately 120 factors that have a significant impact on the ranking, based on the policy that factors that can be used as a reference for user businesses that wish to improve their display ranking should be made public. The information is presented in a form 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 in the "Store Performance" section (number of orders, average store evaluation score, etc.), making it easy for store owners to make improvements.

3-4. Return and Refund Procedures, Predictability of App Review, Factors Determining Display Ranking

[Factors Determining Display Ranking] (continued)

■ Apple

- Agreements regarding the ranking and discoverability of apps in the App Store are specific, clear, and easy to understand. User businesses are also provided with website resources on this topic (“Improving Discoverability in the App Store and Mac App Store”). For example, the article “Evaluations, Reviews, and Responses” for user businesses includes additional information on the evaluation of apps (see 3rd Meeting [Document 3], p. 77, report excerpt, p. 39).

■ Google

- Clear and detailed information is provided on the main factors used to detect and rank apps on the Google Play Store. The Play Console website also provides additional information to user businesses on how to optimize their app store listings and make it easier for users to find them when they search the Google Play Store.
- By disclosing the above information, Google aims to provide enough information to allow user businesses to understand how their apps are ranked on the Google Play Store. This helps user businesses understand the best way to have their apps found on the Google Play Store and helps 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 user businesses 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 user businesses. As such, there is a need to balance these factors when disclosing the main factors used to detect and rank apps in the Google Play store.

Monitoring Meeting on Transparency and Fairness of Digital Platforms — Chronology

- 1st Meeting: December 24, 2021 — The "Monitoring Review" Process
- 2nd Meeting: March 14, 2022 — Questions and Matters to be Confirmed for Specified Digital Platform Providers
- 3rd Meeting: August 25, 2022 — Report Submitted by the Specified Digital Platform Providers and Responses to Questions (Discussion)
- 4th Meeting: September 13, 2022 — Consultation with Digital Platform Providers (1)
• Amazon Japan G.K.
• Rakuten Group, Inc.
- 5th Meeting: September 21, 2022 — Consultation with Digital Platform Providers (2)
• Apple Inc. and iTunes K.K.
- 6th Meeting: September 22, 2022 — Consultation with Digital Platform Providers (3)
• Yahoo! Japan Corporation
• Google LLC
- 7th Meeting: October 27, 2022 — Discussion in Preparation for Opinions of the Monitoring Meeting (Discussion on the Draft Framework)
- 8th Meeting: November 8, 2022 — Opinions of the Monitoring Meeting (Draft)

Monitoring Meeting on Transparency and Fairness of Digital Platforms Members (in Japanese syllabary order)

Chair: Okada Yosuke, Professor, Graduate School of Economics, Hitotsubashi University
Ikegai Naoto, Professor, Graduate School of Law, Hitotsubashi University
Kuroda Toshifumi, Associate Professor, Faculty of Economics, Tokyo Keizai University
Korenaga Daisuke, Professor, Graduate School of Law, Tohoku University
Takakura Hiroki, Professor, Information Systems Architecture Science Research Division, National Institute of Informatics, Research Organization of Information and Systems
Takeda Kuninobu, Professor, Graduate School of Law and Politics, Osaka University
Hyakubu Michiko, Senior Manager, PwC Aarata LLC
Hirayama Kentaro, Attorney at Law, Hirayama Law Office / Associate Professor, Faculty of Business Sciences, University of Tsukuba
Masujima Masakazu, Partner, Mori Hamada & Matsumoto
Wakae Masako, Senior Writer, The Yomiuri Shimbun

[Observers]

Kishihara Takamasa, Managing Director, Mobile Content Forum
Kondo Hiroko, Chair, ICT Committee, Nippon Association of Consumer Specialists
Sawada Toshiko, Director, EC Network
Manba Toru, Managing Director, Japan Direct Marketing Association

[Related Ministries and Agencies]

Headquarters for Digital Market Competition, Cabinet Secretariat; General Affairs Division, Economic Affairs Bureau, Japan Fair Trade Commission; Personal Information Protection Commission; Policy Planning Division, Consumer Affairs Agency; ICT Strategy Policy Division, Information and Communications Bureau, Ministry of Internal Affairs and Communications; Competition Enhancement Office, Economic and Industrial Policy Bureau, Ministry of Economy, Trade and Industry

[Secretariat]

Digital Market Policy Office, Commerce and Information Policy Bureau, Ministry of Economy, Trade and Industry
ICT Media Consulting Department, Consulting Division, Nomura Research Institute, Ltd.