

## Evaluation on Transparency and Fairness of Specified Digital Platforms (General online shopping malls and app stores)

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Ministry of Economy, Trade and Industry

### I. Introduction

This evaluation is conducted by the Minister of METI in accordance with Article 9, Paragraph 2 of the Act on Improving Transparency and Fairness of Digital Platforms (Act No. 38 of 2020; hereinafter referred to as the "TFDPA" or the "Act").

The specified digital platforms reviewed in this evaluation are as follows.

Business category	Specified digital platform	Specified digital platform providers
General online shopping malls <sup>1</sup>	Amazon.co.jp	Amazon Japan G.K. (hereinafter referred to as "Amazon")
	Rakuten Ichiba	Rakuten Group, Inc. (hereinafter referred to as "Rakuten")
	Yahoo! Shopping	Yahoo Japan Corporation (hereinafter referred to as "Yahoo")
App stores <sup>2</sup>	App Store	Apple Inc. and iTunes K.K. (hereinafter referred to as "Apple")
	Google Play Store	Google LLC (hereinafter referred to as "Google")

In conducting this evaluation, we reviewed the contents of the periodic reports for FY2021 submitted by specified digital platform providers, information provided to the Digital Platform Consultation Desk,<sup>3</sup> and the results of the questionnaire survey. In addition, through the "Monitoring Meeting on the Transparency and Fairness of Digital Platforms" (Chaired by Okada Yosuke, Professor, Graduate School of Economics, Hitotsubashi University; hereinafter referred to as the "Monitoring Meeting")<sup>4</sup>, the opinions of academic experts and other relevant parties were heard.

In addition, in conducting the evaluation, we took into account the "Fundamental Approach" in the guideline<sup>5</sup> established by the Minister of METI (Article 9, Paragraph 2 of the Act). The "Fundamental Approach" indicates the direction of efforts expected of specified digital platform providers based on the purpose of the co-regulation, and its main points can be summarized as follows.

- When taking actions that affect businesses that use specified digital platforms (hereinafter referred to as "business users"), such as changing the terms and conditions under which the specified digital platforms are provided, take into account the impact on the business users in advance, and respond appropriately (e.g., explanation of contents and reasons that are easy to understand from the viewpoint of business users,

<sup>1</sup>Refers to the business category specified in the middle column of Item 1 of the table in Paragraph 1 of the Cabinet Order for Stipulating the Business Category and Scale under in Article 4, Paragraph 1 of the TFDPA (Cabinet Order No. 17 of 2021; hereinafter referred to as the "Order"). The same applies hereinafter.

<sup>2</sup>Refers to the business category specified in the middle column of Item 2 of the table in Paragraph 1 of the Order. The same applies hereinafter.

<sup>3</sup>[https://www.meti.go.jp/policy/mono\\_info\\_service/digitalplatform/business.html](https://www.meti.go.jp/policy/mono_info_service/digitalplatform/business.html)

<sup>4</sup><https://www.meti.go.jp/press/2021/12/20211221001/20211221001.html> (in Japanese);  
[https://www.meti.go.jp/english/press/2021/1221\\_003.html](https://www.meti.go.jp/english/press/2021/1221_003.html) (in English)

<sup>5</sup>Refers to the Guidelines on Measures to be Taken by Specified Digital Platform Providers to Promote Mutual Understanding in Transactional Relationships with Users Providers of Products, etc. (METI Notification No. 16 of 2021). The same applies hereinafter.

notification with sufficient time, consistent and impartial judgments, etc.).

- Listen carefully to complaints, consultations, and objections from business users and respond appropriately.
- Establish a system that leads to operational improvements, and strive to continuously improve operations.

In this evaluation, in light of the above perspectives and taking into account the opinions of the experts at the Monitoring Meeting, the direction of efforts expected of the specified digital platform providers is indicated, and initiatives that can be evaluated in light of the said direction are listed.

The following three directions (possible options) for response based on this evaluation are listed below.

### **(1) Voluntary operational improvements by specified digital platform providers**

Under the TFDPA, specified digital platform providers must strive to voluntarily improve the transparency and fairness of their specified digital platforms based on the results of the published evaluation (Article 9, Paragraph 6 of the Act). Specified digital platform providers are expected to voluntarily and proactively improve their operations based on this evaluation. In doing so, reference may be made to the evaluable initiatives listed in this evaluation.

### **(2) Revision of "guidelines" for voluntary procedures and system development**

The guidelines established by the Minister of METI are scheduled to be reviewed on a constant basis. The revision of the guidelines may be considered in the future, taking into account changes in economic and social conditions and the status of voluntary efforts by specified digital platform providers.

### **(3) Consideration of enforceable intervention measures**

In the future, if there are some cases that are difficult to deal with in the framework of the TFDPA or existing laws and regulations, enforceable intervention measures may be considered.

In addition, Appendix 1 of this evaluation summarizes the status of the processing of individual cases related to the TFDPA. The purpose of this information is to increase transparency in the operation of the TFDPA and to lead to compliance with the TFDPA and voluntary efforts by specified digital platform providers.

## **II. Evaluation (\*see Appendix 2 for details)**

This evaluation is in two parts.

First, "1. Status of fulfillment of obligations under the TFDPA" is an evaluation based on the periodic reports for FY2021 submitted by the companies and other information.

"2. Major issues and expected direction of initiatives in the online mall and app store sectors" shows the expected direction of efforts from the viewpoint of improving transparency and fairness, after confirming the status of efforts by specified digital platform providers with regard to the relatively large number of comments<sup>6</sup> received from business users at the Digital Platform Consultation Desk, etc. and those that could affect a large number of business users.

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<sup>6</sup>It should be noted that complaints may include those based on misunderstanding or lack of awareness of the terms and conditions, etc.

In addition, details including information provided by the specified digital platform providers (factual information to be evaluated) are compiled as Appendix 2.

## 1. Status of fulfillment of obligations under the TFDPA

It can be evaluated that the disclosure of information such as terms and conditions of provision by specified digital platform providers has generally improved as a result of the implementation of the TFDPA. The specified digital platform providers also showed a positive attitude toward the development of a system for handling complaints and resolving disputes. In fact, according to the results of a survey of business users<sup>7</sup>, about 70-80% of the business users indicated that the information disclosure and consultation services provided by the specified digital platform providers have become more understandable and courteous.

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

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

The TFDPA requires specified digital platform providers to disclose certain matters as terms and conditions of provision and, in disclosing the terms and conditions of provision including such matters, to describe them in Japanese using clear and plain expressions and to make them readily accessible for reference at any time (Article 5, Paragraphs 1 and 2 of the Act and Article 5 of the Ministerial Ordinance<sup>8</sup>). This is expected to improve the understanding of the terms and conditions of provision by the business users and increase the predictability of their business. In order to realize such effects, **if the terms of use, etc., which describe the terms and conditions of provision, are voluminous, efforts and innovations are required to disclose them in an easy-to-understand manner so that important information for business users will not be buried in the terms and conditions.**

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

Regarding the advance notification period for changes to the terms and conditions, according to the results of a questionnaire survey of business users<sup>9</sup>, approximately 60-80% of respondents indicated that they were notified three months or more in advance, and 80-90% when combined with those who indicated that they were notified one month or more in advance, indicating a certain level of efforts to address the issue. On the other hand, in some cases, some business users have commented that the time period for responding to changes is insufficient.

At Apple, there was a case of giving 15 days' notice of a change in the App Store pricing table (Tier) price.<sup>10</sup>

**When making changes to the terms and conditions of provision, etc., it is necessary to provide a sufficient preparation period, taking into consideration the circumstances of the business user, and to explain the**

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<sup>7</sup>March 14, 2022 2nd Monitoring Meeting [Ref. 1] Page 15 of "the Results of Questionnaire Survey for Digital Platform Business Users" (hereinafter "2nd Monitoring Meeting [Ref. 1]").

<sup>8</sup>Refers to the Ordinance for Enforcement of the TFDA (METI Ordinance No. 1 of 2021). The same applies hereinafter.

<sup>9</sup>See the page 20 of the 2nd Monitoring Meeting [Ref.1].

<sup>10</sup>Subsequently (on December 7, 2022), Apple announced that it would take measures to make the App Store pricing tables (Tier) more flexible for price setting by business users. This would also allow business users to avoid the impact of Tier price changes due to exchange rate fluctuations by Apple, if they choose, and eliminate the need for work to respond to such changes.

**details and reasons for the changes in an easy-to-understand manner. In addition to this, it is also necessary to make the process of dialogue with business users more effective. From these perspectives, we will closely monitor each company's response to changes in terms and conditions of provision.**

The following initiatives can be evaluated as desirable efforts in light of the above-mentioned objectives.

<Efforts and innovations for disclosing the terms and conditions of provision and changes in the terms and conditions of provision in an easy-to-understand manner>

- Released web pages that list or consolidate and briefly explain disclosures made under the TFDPA to the public (Rakuten, Yahoo)
- Provided explanations at events for users when making changes that have a large impact on business users (Rakuten)
- Provided an old/new comparison of the changes (Yahoo)
- Released a Japanese-language video explaining the new policy changes (Google)

<When reasonable opinions are received from business users regarding changes in terms and conditions of provision, such opinions will be taken into consideration>

- Conducted preliminary interviews with the most affected business users (Yahoo)

## **(2) Establish procedures and systems to promote mutual understanding**

The TFDPA obliges specified digital platform providers to take necessary measures to promote mutual understanding in business relationships with business users (Article 7, Paragraph 1 of the Act). In order to contribute to the appropriate and effective implementation of such measures, guidelines have been established by the Minister of METI (Article 7, Paragraph 2 of the Act), and specified digital platform providers are required to explain in their periodic reports the specific measures they have taken to realize the desirable direction of efforts indicated in the "Fundamental Approach " of the said guidelines. (Article 9, Paragraph 1, Item 4 of the Act).

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

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

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

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

The following initiatives can be evaluated as desirable efforts in light of the above-mentioned objectives.

<Explanation of procedures and systems for effective improvement of operations and specific examples of improvement measures taken>

- Set various indicators and targets for the accuracy of each measure, such as suspending listings, and monitor and

periodically scrutinize their progress, identify specific measures for improvement, set specific targets for those in charge of each improvement measure, and manage progress. In addition, an independent team conducts regular audits of the actions and decisions of the team implementing actions such as suspending listings (Amazon)

- Regularly hold meetings to hear opinions from outside experts, and publish summaries of the meetings, opinions of the experts, and improvement activities based on the opinions on the portal site for business users (Rakuten)
- Explained specific details of improvements based on internal audit findings (that a system and mechanism to handle and resolve complaints comprehensively, appropriately, and promptly is needed) (Yahoo)
- As specific examples of how feedback from business users have led to operational improvements, Google explained how it consulted with a Japanese user group that provides online crane game apps regarding changes to the "Google Play Policy on Cash Gambling, Games, and Contests" and introduced a certification system and monitoring system as a pilot program to enable the continued distribution of such apps. Google also explained that the policy on authorship in news apps was updated based on feedback from Japanese news organizations (Google)
- As a specific example of how user opinions were linked to operational improvements, an example of updating guidelines for describing app metadata based on feedback from business users was explained (Apple)

<Explanation of current issues and future policy>

- Presented a specific policy, stating that "maintaining transparency when giving preferential treatment to our own group company store" is a future issue (Yahoo)
- Presented a specific policy for "Notice Regarding Temporary Suspension of Account" as an issue for the future (Google)

### **(3) Status of complaint handling and dispute resolution**

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

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

**We expect specified digital platform providers to proactively disclose information that contributes to an objective evaluation of their efforts in complaint handling and dispute resolution.**

Regarding complaint handling and dispute resolution by specified digital platform providers, business users have voiced comments such as, "Responses to inquiries are canned and problems are not resolved," "Insufficient communication when a problem arises does not lead to a resolution," "There are some cases where the Japanese language is not used to communicate properly", etc.

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

- **[Amazon]:** It was explained that, in preparing and using communication plans and notification letters with business users in advance, the opinions of business users regarding the quality of communication are regularly scrutinized, and the prescribed plans and letters are being improved, but in light of the feedback from business

users, **it is possible that the responses using the prescribed plans and notification text may have led to the above-mentioned comments from business users, and we expect the company to continue its efforts to improve the quality of communication with business users in the future.**

- **[Apple]:** It was explained that complaints received on the complaint form established with the implementation of the TFDPA are reviewed, investigated, and evaluated by a cross-functional team consisting of various experienced, highly trained, and designated experts, and that the results of the review are answered individually, but in light of the low number of complaints and the comments from business users, **it is possible that the above complaint form is not fully recognized by business users, and we expect efforts to increase awareness among business users.**

In resolving disputes with business users, it may be effective to involve a third party. For example, if there is a dispute over measures taken by a specified digital platform provider, such as account suspension measures, and sufficient information cannot be disclosed to the business user due to security measures or other circumstances, it may be difficult to objectively confirm the appropriateness of such measures. In such cases, it would be highly appreciated if measures such as the use of ADR (Alternative Dispute Resolution), etc., at the request of the business user and reasonable cost-sharing for dispute resolution are considered.

The following initiatives can be evaluated as desirable efforts in light of the above-mentioned objectives.

- Explanation of the percentage of complaints from business users that were ultimately resolved in accordance with the wishes of the business users (approximately 74%) (Amazon)
- Explanation of the percentage of complaints and disputes from business users that resulted in Google's judgment being maintained, etc. (approximately 25%) (Google)
- Explanation of the results of a survey conducted at the help desk (85% of respondents indicated that they were satisfied) (Yahoo)
- Explanation of the number of opinions received from business users and the number of cases in which functional improvements were made, and visualization of the results to business users (Yahoo)
- Detailed and specific explanation of the results and reasons for the handling of all three grievances filed (Apple)
- Establish a close relationship with the Japan Direct Marketing Association (JADMA), to which METI outsources the operation of the Digital Platform Consultation Desk (for online mall users), and when JADMA points out issues with Amazon, promptly work with the relevant departments to identify the cause and promote implementation of remedial measures, etc.(Amazon)
- Establish a new communication channel with Mobile Content Forum (MCF), an industry association of mobile developers to which METI has entrusted the operation of the Digital Platform Consultation Desk (for app store business users), to exchange views with business user groups (Google)

## **2. Major issues and expected direction of initiatives in the online mall and app store sector**

### **(1) App store fees and billing methods**

App store fees have become an extremely important concern for businesses that provide digital services for mobile devices for a fee, influencing business feasibility decisions and future investments, and many have pointed out issues regarding the level of fees and how they should be charged. Internationally, there have been various developments, such as lawsuits, competition law enforcement, and institutional reforms, assuming that there could be competition problems.

At the Monitoring Meeting, Apple and Google, which operate app stores, provided various explanations, including the positioning of their fees (that it is an app store usage fee, not a settlement fee). This point is commendable as a first step toward mutual understanding with business users. In addition, while it has been pointed out that, in practice, only payment methods designated by Apple and Google can be used for billing, Google has applied its User Choice Billing pilot program not only to countries and regions where it is required by law, but also to Japan, and announced its policy to increase billing method options on a trial basis for applications other than game applications, which can be evaluated as an example of initiatives based on user feedback.

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

## **(2) Preferential treatment of the company and its affiliates**

On the specified digital platforms, where the specified digital platform providers themselves or their affiliates offer and sell products and apps, business users have voiced concerns that the specified digital platform providers may be favoring their own companies or affiliates in taking action against violations, in the display ranking of products and apps, and in the use of data regarding the business activities of the business users. Internationally, there have been various discussions and examinations of in-house preferential practices by major digital platforms as a possible competition issue.

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

Some of their own preferential acts may be justified, while others may be evaluated as problematic from the standpoint of fairness and impartiality, but **it is important for specified digital platform providers to dispel the concerns of not only business users but also of society, including experts, since they are entities that are**

**highly required to enhance the transparency and fairness of their operations. We expect each company to disclose information and establish a system so that enables objective verification of whether or not it and its affiliates receive preferential treatment and, if so, the legitimacy of such treatment, and then to explain those efforts.**

### **(3) Procedures for account suspension and app deletion**

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

However, some business users have commented that they do not know how to respond because there is no explanation as to why their accounts were suspended, or that their accounts were suspended because of their association with the offending account, but it is difficult to prove that there is no association. This may be due to insufficient explanation of the reason or difficulty in providing detailed notification of the reason due to security or other factors. The TFDPA also does not impose the obligation to give notice of reasons, etc. in certain exceptional cases, such as when it harms the legitimate interests of consumers, etc. (Article 5, Paragraph 4, Item 4, proviso of the Act, Article 11, Paragraph 2 of the Ministerial Ordinance).

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

Specifically, the following actions are required.

- i) The necessity and reasonableness of account suspension measures should be carefully determined. In particular, when taking immediate action to suspend accounts without prior notice, **it is necessary to carefully determine whether the action falls under any of the exceptions under the TFDPA,** including the necessity and reasonableness of such action.
- ii) When taking measures to suspend accounts, in principle, **specific reasons are required to be disclosed in advance to the extent that the business user can substantially file an objection.**
- iii) **If it is found that the account suspension was taken in error** through an objection from the business user, etc., **it is expected that efforts will be made to give full consideration to the interests of the business user, such as promptly restoring the account and considering whether or not compensation is necessary.** In particular, it is important to consider how to provide after-the-fact remedial measures, such as enhancing the compensation mechanism, in light of the fact that, in cases where individual account suspension measures are automatically implemented using AI or other means, a certain percentage of wrong decisions may be made, resulting in disadvantages to a large number of users.

On an individual basis, the following responses are expected.

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



In addition to the above, **we expect the number of objections to account suspensions and examples of such objections to be explained so that the appropriateness of account suspensions can be verified externally.** In addition, it would be highly appreciated if measures such as the use of ADR (Alternative Dispute Resolution) at the request of business users, and a study on how reasonable costs for dispute resolution should be borne. Similarly, when taking action against violations, the company is required to ensure due process and fairness, as well as to continuously improve its response.

The following initiatives can be evaluated as desirable efforts in light of the above-mentioned objectives.

- When suspending accounts, fair and careful consideration is given by a council of relevant departments in accordance with the prescribed internal flow (Rakuten)
- In cases where it is not possible to determine from the web page whether or not the product or act is a prohibited, the company will make a careful judgment, such as asking the business user to submit a written response and confirming the facts before determining that the act is a violation (Rakuten)
- By improving the messaging of graduated violation warnings, the number of objections related to not understanding the reason for account suspension has been reduced by 70%. Also, an 18% reduction in objections related to misunderstandings of the reasons for account suspensions by updating the notice to make it easier for business users to understand the meaning in situations where they suspend accounts associated with the offending account (Google)
- When expelling a vendor, an email indicating not only the relevant provisions of the guidelines, etc., but also the specific conduct that is problematic and the reasons why it is problematic, the date of the violation, etc is sent. (Yahoo)
- Present samples of notification letters for contract termination, expelling the vendor, or account suspension actions (Rakuten, Yahoo, Apple)

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

#### **(4) Handling of returns and refunds**

In some cases, the specified digital platform providers, rather than the relevant business users, may be responsible for setting return/refund conditions and making individual return/refund decisions for products, etc. provided by the business users, but business users have voiced their dissatisfaction with the handling of cases in which a specified digital platform provider accepts returns and refunds without sufficient fact-checking, and with the handling of cases in which a purchaser has switched returned merchandise.

At the Monitoring Meeting, the companies explained the conditions for returns and refunds and their individual decisions on accepting returns and refunds, and it was found that at Rakuten Ichiba and Yahoo! Shopping, these conditions are left to the discretion of the business users. On the other hand, at Amazon.co.jp, the App Store, and Google Play Store, Amazon, Apple, or Google may set conditions and make decisions regarding individual returns and refunds for products and other goods provided by business users, and this is considered to be a situation where complaints from business users are likely to arise.

**We expect Amazon, Apple, and Google to take measures to improve business users' understanding and business predictability, such as by proactively providing easy-to-understand explanations to business users of their policies and initiatives regarding returns and refunds, and publicly announcing and explaining certain information regarding their return and refund records, and to enhance the process for filing objections.**

On an individual basis, the following responses are expected.

- **[Amazon]:** In light of the feedback from business users, we expect the following initiatives in the future.
  - i) **Publicly announce and explain that the return conditions set by Amazon (including campaigns that are temporarily applied only to products for which the Fulfillment by Amazon service<sup>11</sup> is used by the business users) have been appropriately set, taking into consideration the impact on the business users and other factors in advance.**
  - ii) **Actively provide easy-to-understand explanations of individual return decisions, return information, and efforts related to objections,** and promote the understanding of business users.
  - iii) In the event that an objection is raised by a business user regarding Amazon's decision to return a product, to communicate sufficiently with the business user to **ensure an appropriate resolution in accordance with the individual case.**
  - iv) **Publicize and explain efforts related to compensation for returned goods,** including an overview of the compensation system for returned goods, the thinking behind the level of compensation, and the actual results of compensation.
- **[Apple]:** In light of the feedback from business users, considering the fact that Apple has set a relatively long period of "60 days" as a general rule to accept refund requests from users, **we expect Apple to further promote efforts to prevent users from being unfairly disadvantaged, such as by enhancing explanatory responses and objection processes.** For example, efforts to provide various tools, etc. that enable business users to obtain information on refunds (status of refunds, history of in-app purchases refunded by apps for customers, history of end users' in-app purchases, subscription status, consumption information, etc.) are commendable, and **we expect that these efforts are proactively explained to business users in an easily understood manner, and will be improved while verifying their use.**

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

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

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

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<sup>11</sup>Refers to a fee-based optional service in which Amazon stores and ships inventory and performs customer service operations on behalf of the business user.

While some business users have pointed out certain improvements in the app review procedures and system, others have pointed out issues regarding its predictability, fairness, and impartiality. Where the predictability of app reviews affects the business activities and investment decisions of business users, **we expect Apple and Google to continuously work toward improving the app review process while maintaining dialogue with business users.**

### **III. Conclusion ~Toward Voluntary and Proactive Operational Improvement~**

Digital platforms are bearers of innovation and bring a variety of benefits, such as providing SMEs and others with opportunities to develop new customers at home and abroad. On the other hand, the more businesses and consumers use a digital platform, the more convenient it becomes, which is characterized by a significant "network effect," and this tends to create a monopoly or oligopoly, and small and medium-sized businesses are forced to use some of the digital platforms.

In this regard, the TFDPA, from the perspective of striking a balance between innovation and discipline, is based on the voluntary and proactive efforts of digital platform providers, rather than the traditional regulatory approach where the government imposes uniform and strict rules of conduct on providers, and it adopts the mechanism that the government will continuously evaluate the operation of specified digital platforms by listening to the opinions of experts as well as user businesses and consumers, and publish the results of the evaluation to encourage specified digital platform providers to voluntarily improve their operations. This process of "Monitoring Review" is the core of "co-regulation," in which the government provides major direction while leaving a certain degree of autonomy to the voluntary efforts of operators to achieve the objectives of regulation, and thus plays an extremely important role from the perspective of ensuring the effectiveness of the TFDPA.

In light of the purpose and objectives of the Monitoring Review described above, providers of specified digital platforms are required to voluntarily and proactively improve the operation of their specified digital platforms based on this evaluation, and to ensure the trust of business users and society as a whole by providing a solid explanation of the effectiveness of their efforts. METI will closely monitor the status of efforts by each company and review the direction of expected efforts through revisions of the guidelines. In addition, for those cases that are difficult to deal with under the framework of the TFDPA, which is based on voluntary efforts, and existing laws and regulations, it is conceivable to consider enforceable intervention measures in cooperation with relevant ministries and agencies, while referring to international trends.

## **Appendix 1: Handling Status of Individual Cases Related to the TFDPA<sup>1</sup>**

The TFDPA stipulates that if the Minister of METI makes a recommendation to a specified digital platform provider based on said Act, it shall make a public announcement to that effect (Article 6, Paragraph 3 and Article 8, Paragraph 2 of the Act). Although no case has resulted in a recommendation at this time, the following is a summary of the individual cases that did not result in a recommendation but may have violated the TFDPA, the status of the Ministry's handling of the cases,<sup>2</sup> and the reasons for the handling.

The purpose and intent of announcing such information is to increase the transparency of the operation of the TFDPA and to deter similar cases from occurring by further deepening the understanding of specified digital platform providers of the TFDPA.

In the event that a specified digital platform provider is found to be in possible violation of the TFDPA, we expect the provider to voluntarily report to the Ministry, cooperate with investigations, and take remedial measures as necessary to recover damages and make improvements. Such efforts may be taken into account when determining whether to implement recommendations or other measures.

### **Case (1): Notice of reasons for refusal of renewal based on expiration of contract term**

In one specified digital platform, the provider of the specified digital platform refused to renew the contract to a certain number of business users based on the expiration of the contract term.<sup>3</sup> At that time, the notice of refusal of renewal (hereinafter referred to as the "Notice") sent in advance by the specified digital platform provider to the business user only stated that the contract was non-renewable due to expiration of the contract term and the provisions of the grounds for the contract. and there were no reasons for the refusal in the Notice. Since the contractual basis provision cited in the Notice stipulated that renewal could be refused for any reason, the business users were unable to recognize the reason for the refusal of renewal from the Notice alone.

When a specified digital platform provider refuses a transaction in its entirety to a business user, it is obliged, in principle, to state to that effect and the "reason" in clear and plain language at least 30 days prior to such refusal and disclose such information to the relevant user (Article 5, Paragraph 4, Item 2 of the Act, Article 7, Paragraph 1<sup>4</sup> of the Ministerial Ordinance). In the above specified digital platforms, automatic renewal clauses are set in the usage contracts, and the contracts are renewed as long as there are no particular problems, so it is expected that the business users will have an expectation that the usage contract will be renewed unless there is a reasonable reason for refusal of renewal. Considering these circumstances, it cannot be evaluated that the "reason" for refusing renewal (refusing the entire transaction) was clearly disclosed to the business user by the Notice.

The above case is in a critical situation of total rejection of the transaction, and its impact is not small. On the other hand, the above-mentioned specified digital platform provider voluntarily reported to the Ministry before the

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<sup>1</sup>Handling period: April 1, 2021 - October 31, 2022

<sup>2</sup>This is the handling based on the facts recognized by the Ministry at this time based on reports from specified digital platform providers, etc., and the handling policy may be revised if the Ministry recognizes new facts in the future.

<sup>3</sup>In the specified digital platform in question, the usage contract with the business user sets a fixed-term contract period and stipulates that the contract will be automatically renewed at the expiration of that period unless both parties make a special request. In accordance with such provisions, the specified digital platform provider may notify the business user that it will not renew the contract at the expiration of the contract term, and may refuse to renew the subscription contract with the business user.

<sup>4</sup>Refers to the Ordinance for Enforcement of the TFDPA (METI Ordinance No. 1 of 2021) (prior to revision on August 1, 2022). The same applies hereinafter.

Ministry became aware of the matter, fully cooperated with the Ministry's investigation, promptly corrected the problem by reviewing the notification format for refusal of renewal, and voluntarily took measures to prevent recurrence. In addition, the above-mentioned specified digital platform provider notified the business users who refused renewal by this Notice of the reasons for refusal of renewal once again. It was reported that no objections were filed against the above-mentioned specified digital platform providers by the business users after the initial notification and after the renewed notification of the reasons, and it was inferred that there is a high possibility that there are no business users who were substantially disadvantaged by the initial response.

Considering the above circumstances, the Ministry has only instructed the above-mentioned specified digital platform providers to take sufficient precautions to prevent similar problems from occurring in the future and to thoroughly implement the reported measures to prevent recurrence.

### **Case (2): Prior notice of change in terms and conditions of provision**

In a certain specified specified digital platform, the specified digital platform provider has decided to make it mandatory to accept certain measures as a condition for allowing a business user to change the type of contract for using the said digital platform, and to change such response without prior notice.

When changing the terms and conditions to provide a specified digital platform (hereinafter referred to as "terms and conditions of provision"), the specified digital platform provider shall, in principle, disclose to the business user in advance to that effect and the reason for the change, setting a period of time for the business user to respond to the change (Article 5, Paragraph 4, Item 1 of the Act). The above change in response constitutes a change in the terms and conditions of provision, and the above specified digital platform provider has failed to make the prior disclosure required under the TFDPA.

The above case is one in which, without prior notice, conditions are attached as a condition for changing the type of contract, at the expense of the business user, and this could have a significant impact on the business user. However, by announcing the postponement of the change of the above-mentioned terms and conditions of provision, and by individually contacting the business users who had applied for the change of the contract type by then and providing them with the opportunity to change the contract type without accepting the above measures, the above-mentioned specified digital platform provider has largely eliminated the disadvantages of the business users due to the lack of prior notice. In addition, the above-mentioned specified digital platform providers have fully cooperated with the Ministry's investigation by voluntarily providing information that the Ministry requested them to provide, including information to confirm the implementation of the above-mentioned measures to eliminate disadvantages. The above-mentioned specified digital platform providers eventually withdrew the changes to the above terms and conditions of provision.

Considering the above-mentioned circumstances and others, the Ministry only instructed the above-mentioned specified digital platform providers to be careful in their future operations.

### **Case (3): Disclosure of data use conditions prior to the start of use of digital platforms**

Regarding the contents and conditions for the acquisition and use of data pertaining to products, etc. provided by a business user on a certain specified digital platform (hereinafter referred to as "data on the provision of products, etc."), a portion of the contents to be disclosed (hereinafter referred to as the "undisclosed portion") was not disclosed to the business users prior to the start of use. Disclosure was made to the business users after the start of use, including the undisclosed portion, on the web page displayed after logging in with the account to be granted.

Specified digital platform providers are obligated to disclose to the business users the contents of the data on the provision of products, etc. to be acquired and used by said specified digital platform providers and the conditions of acquisition and use as the terms and conditions of provision, which must be disclosed not only during use but also "before the start of use" in a form that can be easily referenced at any time (Article 5, Paragraph 1, Paragraph 2, Item 1(d) of the Act, and Article 5, Paragraph 1, Item 2 of the Ministerial Ordinance). Therefore, the above-mentioned specified digital platform provider lacked some of the disclosures required under the TFDPA.

It is undeniable that the above case may have affected the decision of the business users on whether or not to use the above specified digital platform. However, the contents of the undisclosed portion were those that could be inferred from the disclosed information, and were not unexpected for the business users. In addition, the business users were able to view the entire contents of the disclosure, including the undisclosed portion, immediately after the start of use. The Ministry did not receive any specific comments from the business users regarding this matter. Furthermore, it was not found that the above-mentioned specified digital platform providers intentionally failed to disclose the undisclosed portion of the information to the business users prior to the start of use. In addition, the above-mentioned specified digital platform provider has fully cooperated with the Ministry's investigation of this matter by voluntarily providing information requested by the Ministry, and has promptly corrected the problem by posting additional undisclosed portions on a publicly available web page that can be viewed by business users and others before the start of use.

Considering the above-mentioned circumstances and other factors, the Ministry has only instructed the above-mentioned specified digital platform providers to consider taking action as necessary, such as contacting the relevant business users, and to be careful in their future operations.

#### **Case (4): Immediate suspension of the accounts related to offender's accounts**

In order to respond to infringement by a business user who has committed an infringement on a specified digital platform (hereinafter referred to as "Offending Party"), immediate account suspension measures were taken against a number of accounts determined to be associated with the Offending Party's account (hereinafter referred to as the "Offending Account") based on certain criteria. Subsequently, upon being pointed out by a business user that it had no recollection of the account suspension action, the above-mentioned specified digital platform provider conducted a thorough investigation and found that it had suspended numerous accounts that were not actually associated with the Offending Account. Therefore, the above-mentioned specified digital platform provider has lifted the said measures for the accounts that were mistakenly suspended. The period from the account suspension to the removal of the measure was approximately 20 days.

When a specified digital platform provider refuses all transactions (account suspension measures, etc.), it is obliged, in principle, to disclose this fact and the reason at least 30 days in advance (Article 5, Paragraph 4, Item 2 of the Act, Article 10, Paragraph 1, Item 3 of the Ministerial Ordinance), but as an exception, prior notice is not required if the reasons specified in each item of Article 11, Paragraph 2 of the Ministerial Ordinance apply. The issue in this case is whether or not the case falls under "a case in which it is deemed necessary to promptly take the action set forth in Item 2 in order to ensure cybersecurity or to respond to an act of infringement by fraud or other wrongful means or an act clearly contrary to public order or good morals," as set forth in Article 11, Paragraph 2, Item 5 of the Ministerial Ordinance.

In this case, the acts committed by the Offending Party constituted an act of infringement through fraud or other wrongful means, and the action of immediately suspending accounts that were determined to be related to the Offending Account was a measure to respond to the infringement. On the other hand, the criteria used by the

above-mentioned specified digital platform provider to determine the relevance of the Offending Account are judgment criteria that can be typologically erroneous, and in fact a large number of erroneous judgments have occurred. In light of these circumstances and others, even considering the necessity and urgency of responding to the infringement, it can be evaluated that the measures were more than necessary from the viewpoint that the specified digital platform provider should have taken measures such as using more precise judgment criteria. Therefore, it is possible that the requirement for an exceptional circumstance where account suspension measures without prior notice are permissible may not be met.

In the above case, a large number of business users were inadvertently subjected to immediate account suspension, and were unable to conduct business activities on the digital platform for approximately 20 days, which had a very significant impact. However, this case was an unintentional misjudgment for the purpose of responding to an infringement, and in that sense, it was not malicious. In addition, the above-mentioned specified digital platform providers voluntarily conducted a close examination in response to the suggestions from the business users and the Ministry, and took appropriate measures to lift the account suspension measures due to misjudgment and minimize the damage, and reported the status of their responses to the Ministry. In addition, the specified digital platform provider reported to the Ministry that it would implement a wide range of improvement measures, such as reviewing its execution process and systems, based on this case, and the contents of such improvement measures were expected to make effective improvements.

Considering the above circumstances, the Ministry has only instructed the above-mentioned specified digital platform providers to take sufficient precautions to prevent similar problems from occurring in the future and to thoroughly implement the reported measures to prevent recurrence.

In addition to the above case (4), there have been many cases in which specified digital platform providers have taken measures such as suspending accounts of business users because they have determined that there is a connection with the Offending Account. In this regard, business users have commented that they do not know how to prove that they are not associated with an account that they do not remember and do not know. We will continue to closely monitor the degree of information disclosure to business users in such cases, as this could be a problem common to specified digital platforms.

For example, it may be possible to simply notify that the account is associated with the Offending Account, and not disclose any other additional information (e.g., the name of the Offending Account, the content or type of the violating activity, the basis for determining that the account is associated, etc.) due to concerns about security risks associated with the disclosure of such information, etc. In this regard, the purpose of the TFDPA's requirement for specified digital platform providers to disclose the reasons for refusal of all transactions and to disclose such reasons in advance is to make it easier for business users to review their business and offer consultations as necessary, thereby guaranteeing the opportunity for objections and explanations through objections and other means, and thereby protecting the interests of business users, and it is difficult for a business user to make an effective rebuttal or explanation if only the reason that the business user was found to be related to the Offending Account is disclosed. Therefore, even when taking measures such as suspending an account on the grounds of association with an Offending Account, the specified digital platform provider is required to disclose the reason for the decision in advance to the extent that the business user can substantially file an objection, while taking into consideration the security and other circumstances of information disclosure.

## **Appendix 2: Evaluation on Transparency and Fairness of Specified Digital Platforms (Details)**

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

### **1. Status of fulfillment of obligations under the TFDPA**

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

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

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

##### **① Method of disclosure**

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

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

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

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

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



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

Regarding the advance notification period for changes to the terms and conditions, according to the results of a questionnaire survey of business users<sup>3</sup>, approximately 60-80% of respondents indicated that they were notified three months or more in advance, and 80-90% when combined with those who indicated that they were notified one month or more in advance, indicating a certain level of efforts to address the issue. On the other hand, in some cases, some business users have commented that the time period for responding to changes is insufficient.

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

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

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

### **③ Response to rejection of transaction**

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

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

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

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<sup>3</sup>See the page 20 of the 2nd Monitoring Meeting [Ref.1].

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

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

### **① Establishment of procedures and systems to effectively promote operational improvements**

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

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

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

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

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

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

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

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

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

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

### **(3) Status of complaint handling and dispute resolution**

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

#### **① Disclosure of information for objective evaluation of initiatives**

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

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

#### **② Continuous improvement of response**

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

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

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

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

Apple explained that complaints received on the Complaint Form<sup>5</sup>, which was established in connection with the implementation of the TFDPA, are reviewed, investigated, and evaluated by a cross-functional team of various experienced, highly trained, and designated experts, and the results of the review are answered individually (see page 76 of the 3rd Monitoring Meeting [Ref. 3]). On the other hand, in view of the small number of complaints and the opinions of business users, it is possible that the above complaint form is not yet fully recognized by business users, and we expect efforts to increase recognition by business users.

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

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

### **③ Use of third-party organizations for dispute resolution**

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

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

<sup>6</sup>[https://www.meti.go.jp/policy/mono\\_info\\_service/digitalplatform/business.html](https://www.meti.go.jp/policy/mono_info_service/digitalplatform/business.html)

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

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

We confirmed the status of efforts by specified digital platform providers with regard to the relatively large number of comments<sup>7</sup> received from business users by the Digital Platform Consultation Desk, etc. and the contents that could affect a large number of business users. The following is a summary of business users' comments on each market issue, the status of efforts by each company, and the expected direction of efforts from the perspective of improving transparency and fairness.

### (1) App store fees and billing methods

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

In response, Apple and Google provided the following information.

#### ■Apple

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

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

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

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

#### ■Google

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

basis for applications other than game applications (see page 10 of the 6th Monitoring Meeting [Ref. 3]).

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

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

## **(2) Preferential treatment of the company and its affiliates**

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

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

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

### **[Actions taken in response to violations of the rule]**

#### **■Amazon**

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

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

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

#### ■Rakuten

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

#### ■Yahoo

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

### **[The order in which the products are displayed]**

#### ■Amazon

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



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

#### ■Rakuten

- There is no preferential treatment of specific products or stores with respect to product search results (see page 28 of the 3rd Monitoring Meeting [Ref. 3]).
- As an effort to ensure the above policy, an internal system has been established for smooth business execution, and a new organization, "Commerce Liaison Office," consisting of a person in charge of creating rules for Rakuten Ichiba and a person in charge of business with a license as a lawyer, has been established to ensure compliance of TFDPA under the supervision of the business manager<sup>8</sup> (see page 28 of the 3rd Monitoring Meeting [Ref. 3]).
- In addition to search results, Rakuten Ichiba discloses that it may offer special promotions for certain businesses, products, and brands in order to promote products and brands that are more appealing to users who shop at Rakuten Ichiba stores, but it does not treat differently than usual because of being first-party (direct sales business of Rakuten or its affiliates). (in this regard, Rakuten specifically explained the percentage of first-party stores in eligible stores for several of its campaigns.) (See page 28 of the 3rd Monitoring Meeting [Ref. 3], and pages 3-6 of the Appendix to the Minutes of 4th Monitoring Meeting on September 13, 2022 (hereinafter referred to as "4th Monitoring Meeting")).

#### ■Yahoo

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

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

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

■Apple

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

■Google

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

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

■Amazon

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

■Rakuten

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

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

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

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

#### ■Yahoo

- Regarding the use of "market data for Yahoo! Shopping as a whole (aggregated sales data of each vendor<sup>10</sup>)," the data is provided to affiliated manufacturers under confidentiality agreements so that manufacturers affiliated with Yahoo can check the sales status of their products (see page 44 of the periodic report summary).
- "Sales data of individual vendors" will be used by the sales staff to prepare accurate proposals that match the situation of each business user when making proposals to improve sales, to provide Yahoo services such as recommendations and search rankings, to improve services, and to consider new services, etc. (see page 44 of the periodic report summary).
- A data administrator independent of the sales department is appointed to determine whether the data can be used from a neutral perspective. When new data is used, the process is for the internal data administrator to determine its appropriateness, after which it is used by the Sales Division in accordance with internal guidelines (see page 39 of the 3rd Monitoring Meeting [Ref. 3]).
- The management policy regarding conflicts of interest and own preferential treatment in the online mall business has been formulated and disclosed, and the contact information for inquiries is also clearly indicated, aiming to trigger mutual understanding with business users (see page 39 of the 3rd Monitoring Meeting [Ref. 3]).

#### ■Apple

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

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

■Google

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

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

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

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

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

### **(3) Procedures for account suspension and app deletion**

#### **① Procedures for account suspension**

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

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

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

#### **■ Amazon**

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

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

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

#### ■Rakuten

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

#### ■Yahoo

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

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

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

#### ■Apple

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

#### ■Google

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

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

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

Specifically, the following actions are required.

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

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

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

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

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

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

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



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

## ② Procedures for app removal

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

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

## (4) Handling of returns and refunds

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

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

### ■ Amazon

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

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

■ Rakuten

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

■ Yahoo

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

■ Apple

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

■ Google

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

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

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

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

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

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

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

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

### **① Factors determining the display ranking of products and apps**

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

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

#### **■Amazon**

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

#### **■Rakuten**

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

#### **■Yahoo**

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

#### ■Apple

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

#### ■Google

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

## ② Predictability of app reviews

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

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

#### ■Apple

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

■Google

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

## Appendix 3: Status of Complaints and Dispute Resolution by Specified Digital Platform Providers (FY2021)

### 1. Example of a complaint consultations desk established by a specified digital platform provider

#### Online Mall

Amazon	Rakuten	Yahoo!
<p>○<b>Technical support</b> You can contact us as follows by clicking on "Contact Us" in Seller Central. Email: 24 hours a day, 365 days a year Chat and phone: 9:00 a.m. to 9:00 p.m. daily *Inquiries can be made in Japanese.</p> <p>○<b>Direct contact to the team that implemented the measure</b> For actions such as account suspension, you can directly contact and appeal to the team that took the action.</p>	<p>○<b>Complaints and Disputes Desk</b> Disclosed on "Store Management Navi," a portal site for vendors that can be viewed after signing a contract.</p> <p>○<b>EC consultant</b> A contact person who is assigned to each business user.</p> <p>○<b>Call center/chat desk</b> Accepts inquiries about store operation system operation, campaigns, etc.</p>	<p>○<b>Help Desk</b> ●Shopping Help Desk Telephone Service (10:00 - 18:00 *Except for year-end and New Year holidays) ●Shopping help desk inquiry form (24 hours a day *Replies are sent from 10:00 a.m. to 6:00 p.m. except during the year-end and New Year holidays) ●Store AI chat support (Automatic response 24 hours a day, 365 days a year)</p> <p>○<b>Yahoo! Shopping sales manager</b> Weekdays 10:00 a.m. to 6:00 p.m. (*Except for year-end and New Year holidays)</p>

#### App Store

Apple	Google
<p>○<b>Online form for filing complaints</b> <a href="https://developer.apple.com/contact/p2b/">https://developer.apple.com/contact/p2b/</a> *Inquiries can be made in Japanese.</p>	<p>○<b>Online form "Contact Google Play about account suspension, app removal or suspension of publication"</b> <a href="https://support.google.com/googleplay/android-developer/troubleshooter/2993242?visit_id=637546048936857363-3967891678&amp;rd=1">https://support.google.com/googleplay/android-developer/troubleshooter/2993242?visit_id=637546048936857363-3967891678&amp;rd=1</a> *Inquiries can be made in Japanese.</p>

(Source) Compiled by METI based on periodic reports (summary) submitted by specified digital platform providers.

### 2. Status of complaints and dispute resolution

#### Amazon.co.jp

##### Outline of the System

- Support for business users to solve problems related to their own seller accounts as much as possible.
- A specialized department called "Technical Support" was established to handle inquiries from business users. Respond according to the service standards, which stipulate procedures and response times to be observed, etc., for possible inquiries. To improve the quality of response, the quality of response to inquiries is monitored based on various indicators such as the number of cases per product sold and the average response time.
- Upon receipt of an objection, the team that implemented the measure carefully reviews the objection. If a measure was misjudged, the conditions under which the measure was implemented, etc., are revised to prevent recurrence. Regular scrutiny and remedial action by the management team.

##### Complaint and Dispute Resolution Results (FY2021)

- Number of complaints and disputes**  
[Complaints] 56,910 cases, [Disputes] 45 cases  
\* The number of complaints corresponds to about 2% of all inquiries from business users in the previous fiscal year.  
\* The number of complaints includes those that complain about our decisions, services, response to inquiries, changes to the terms and conditions, etc.  
\* The number of disputes includes cases in which a business user has filed a lawsuit, arbitration, mediation, or other legal dispute resolution procedure against us, as well as cases in which a letter suggesting such a procedure has been sent to us.
- Main types of complaints and disputes**  
[Complaints] Product display and listing-related (50%), Ordering, packaging and delivery-related (29%), Account registration/login/setup-related (6%), Advertising and additional service-related (4%)  
[Disputes] Sales payment-related (24 cases), Account suspension-related (13 cases), product return-related (4 cases)  
\*The number of disputes is the cumulative total.
- Average processing period**  
\*The following period includes the period of waiting for a response from the business user.  
[Complaints] 4.4 days on average. Of all complaints, about 52% were resolved within 24 hours and about 75% within three days.  
[Disputes] The average time taken to process a written objection is 50 days.
- Summary of results**
  - ✓ Approximately 74% of the complaints were resolved in accordance with the business user's wishes through additional explanations, support, and improvements by the business user based on these explanations and support.
  - ✓ Of the dispute procedures, three cases were resolved by the end of the previous fiscal year (all were withdrawn by the business users).
  - ✓ For written objections filed in the previous year, approximately 67% of those resolved in the previous year were resolved in a manner that maintained Amazon's decision.

(Source) Compiled by METI based on periodic reports (summary) submitted by Amazon Japan, LLC.

# Rakuten Ichiba

## Outline of the System

- With the enforcement of the TFDPA, a new "Complaints and Disputes Desk" was established. As a point of contact independent of other departments, etc., the desk responds to matters of complaint objectively and impartially from a third-party standpoint. All cases are fact-checked, and the results and reasons for the decisions are individually responded to the applicant. When responding, it does not provide a standardized response using a template, but rather respond to the specifics of each individual petition in a polite manner.
- The company has long accepted and responded to a wide range of requests and opinions from business users through channels such as EC consultants, call centers, and the "Rakuten Ichiba Service Improvement Committee", which exchanges opinions with business users of the market.

## Complaint and Dispute Resolution Results (FY2021)

### •Number of complaints and disputes

- 21 cases
- \* The number of cases counted for those handled by the "Complaints and Disputes Desk".
  - \* The number of inquiries received by EC consultants and call centers is not counted as the number of complaints and disputes, since a huge number of inquiries are received daily and it is difficult to clearly distinguish between opinions and inquiries and complaints and disputes in terms of content.

### •Main types of complaints and disputes

- "Common shipping included line"-related
- Related to the return of fees, etc.
- Relating to a request for withdrawal of cancellation of a store opening contract
- Related to interpretation of terms and conditions
- Related to requests for correction of violations by other vendors

### •Average processing period

- 8.53 days
- \* Average number of days from receipt of application to final response to the applicant (including holidays and public holidays)

### •Summary of results

- ✓ The "Complaints and Disputes Desk" is independent of other departments, etc., and handles complaints and disputes objectively and impartially from a third-party standpoint.
- ✓ For all cases applied for at the desk, all cases are fact-checked, and the results and reasons for the decisions are individually responded to the applicant.

(Source) Compiled by METI based on periodic reports (summary) submitted by Rakuten Group, Inc.

# Yahoo! Shopping

## Outline of the System

- Inquiries are received at the "Help Desk" or "Sales Representative" and escalated to the appropriate department within the company depending on the content. Specifically, the following departments were assigned: (a) "Screening CS (Customer Satisfaction)" department for screening at the time of store opening, (b) "Guideline CS" department for violations of guidelines after store opening, (c) "Store CS" department for mall management, including customer service after store opening, and (d) "Help Desk" department for other general inquiries after store opening.
- There were no serious complaints or development of disputes. The objective of reassuring and convincing business users through prompt and appropriate complaint handling was achieved to a certain degree. The average time to completion of the first response is short, and the speed of response is acceptable. Complaints received are always closed with a reply from the Company, and no case has been closed with a complaint from a business user that has not been closed.
- A new internal system was created to centrally and comprehensively identify complaints received by each department, and the definitions of complaints were standardized. This has allowed for smoother compilation of grievance cases and post-verification of grievance handling.

## Complaint and Dispute Resolution Results (FY2021)

### •Number of complaints and disputes

- [Complaints] 123 cases, [Disputes] 0 case
- \* In total, 348,500 cases, inquiries were received by each department.
  - \* The above "complaints" are those deemed by each department to be specific appeals for reconsideration, rather than mere requests or questions.
  - \* The above "dispute" refers to a case in which a problem between the Company and a business user has reached a point where it should be resolved through legal means such as litigation or mediation.

### •Main types of complaints and disputes

- [Complaints]
- Investigation Department-related (7 cases) Complaints for disadvantages occurred by the result of screening at the time of store opening
  - Guideline CS Department-related (27 cases) Claims that the standard is not violated, lack of explanation of the guidelines, and that other stores may also be in violation
  - Store CS Department-related (18 cases) Claims from the Company due to consolatory payment programs, etc., closure or withdrawal of stores
  - Help Desk-related (32 cases) Services, store tools, store support, and manuals
  - Sales Department-related (46 cases) Functions, responses, guidelines, and operating policies

### •Average processing period

- [Complaints]
- Inquiries by phone: 10 minutes to complete primary response
  - Email inquiries: Primary response within 48 hours of receipt
  - \* Extracted figures managed by external customer management system and telephone system by measuring the time of incoming calls.

### •Summary of results

- ✓ The Help Desk, which conducts satisfaction surveys in the form of questionnaires, received responses from 85% of respondents that they were satisfied with the service.

(Source) Compiled by METI based on periodic reports (summary) submitted by Yahoo Japan Corporation and other sources.



## App Store

### Outline of the System

- Apple provides an online form under the law that allows Japanese developers to file complaints in the categories of (1) restriction, suspension, or termination, (2) technical issues, (3) legal compliance, (4) payment. Complaints are reliably communicated to the person responsible within the company.
- Review and study the concept and specific efforts regarding the development of systems and procedures necessary to address complaints and resolve disputes by business users. Implement measures consistent with specific examples of efforts in the TFDPA guidelines. Response to complaints and disputes will generally help to clarify and improve Apple's existing internal processes and expedite the timeline for existing transparency efforts. Invest time and resources in updating notifications to business users.

### Complaint and Dispute Resolution Results (FY2021)

#### ●Number of complaints and disputes

[Complaints] 3 cases

\*Objections received via the online form below are counted.  
<https://developer.apple.com/contact/p2b/>

#### ●Main types of complaints and disputes

[Complaints] All of them fall under the category of "Restriction/Suspension/Termination" due to the termination of the business user's account due to fraud.

#### ●Average processing period

[Complaints] Six days from the filing of a complaint until the decision is communicated to the business user.

#### ●Summary of results

- ✓ In two of the three cases, the company maintained termination measures against the business users because they repeatedly violated the guidelines and license agreements by committing fraudulent acts that endangered Apple users and caused other business users to suffer disadvantages.
- ✓ In the one remaining case, Apple rescinded the decision and reinstated the business user's account, and the business user acknowledged its own wrongdoing and violation of the guidelines and license agreement, and promptly took corrective action to eliminate the violation and ensure future compliance.

(Source) Compiled by METI based on periodic reports (summary) submitted by Apple Inc. and iTunes Inc.

## Google Play Store

### Outline of the System

- Complaint processing ends under various circumstances, including "when 48 hours have passed after the solution is presented," "when the customer confirms that the problem has been resolved," or "when the customer replies to the contact person with an acknowledgment".
- Provide multiple avenues for developers to raise issues and concerns (various support desks listed in the Google Play Policy Center). Through these mechanisms, Google handles developer's complaints efficiently and fairly, and considers these complaints to improve the operation of specific digital platforms.

### Complaint and Dispute Resolution Results (FY2021)

#### ●Number of complaints and disputes

[Complaints] 4,637 cases, [Disputes] 0 cases

\* "Complaints" is the total number of complaints received through the designated contacts listed in the terms of use, including the help center, email contact, and website. All apps associated with Japanese-based developers with a Google Play Developer Sales/Distribution Agreement were identified for the count.

\* "Dispute" is a claim case pending before a dispute resolution organization such as a court of law or arbitration with an app business operator.

#### ●Main types of complaints and disputes

[Complaints] App/platform-related (2,301 cases),  
 Objection-related (1,988 cases),  
 Policy-related (250 cases),  
 Account management-related (61 cases),  
 Certification-related (37 cases)

#### ●Average processing period

[Complaints]

Less than 24 hours: 3,135 cases (68%),  
 24-48 hours: 399 cases (9%),  
 More than 48 hours but less than 1 week:  
 637 cases (14%),  
 More than 1 week: 366 cases (9%)

#### ●Summary of results

- ✓ Maintenance of enforcement decisions: 1,136 cases (25%)
- ✓ Revocation of enforcement decisions: 432 cases (9%)
- ✓ Problems solved: 2,959 cases (64%)
- ✓ Other: 110 cases (2%)
- \* If Google provides support to a business user regarding account management, authentication, technical or other issues, this is recorded as a "problem resolution".

(Source) Compiled by METI based on periodic reports (summary) submitted by Google LLC.