Competition Law in Digital Markets (Japan)

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A Practice Note that provides guidance on key antitrust and competition law issues in the rapidly evolving digital markets of Japan. This Practice Note examines the regulatory framework governed by the Antimonopoly Act (AMA) and the enforcement powers of the Japan Fair Trade Commission (JFTC). It explores critical areas of public enforcement, including vertical agreements, exclusive dealing, tying, vertical non-price restrictions, and horizontal arrangements. Additionally, this Practice Note addresses the evolving landscape of regulation directly or indirectly targeting competition law concerns in digital markets (often known as ex ante enforcement) including the Act on Promotion of Competition for Specified Smartphone Software (Mobile Software Competition Act) and the Act on Improving Transparency and Fairness of Digital Platforms (Transparency Act). It also discusses how Japanese merger control rules apply to digital transactions, including potential "killer acquisitions" and platform-based multi-sided markets, while examining the growing significance of private antitrust litigation and the concept of abuse of a superior bargaining position. Legal professionals and businesses can use this Practice Note to identify and manage compliance risks associated with operating in Japan's digital economy.

The rapid expansion of digitalization and innovative technology has presented legal challenges as well as commercial opportunities to companies globally. There can be a tension between using new digital technologies to develop and bring products (and services) to market and complying with competition law, especially where large volumes of digital data or ecosystems are involved.

In the e-commerce sector, for example, companies may encounter competition law issues when:

- Regulating online sales by resellers.
- Providing services through digital platforms.
- Allowing third parties to access data or digital infrastructure.

Moreover, given the increasing pace of technological advancement, many countries are developing and implementing new legal frameworks and investigative tools to directly regulate the digital environment generally (and Big Tech companies in particular) where existing competition laws and policies may be deemed insufficient.

Accordingly, companies (and their counsel) should have an appreciation of the competition rules relevant to the digital economy. This Note explores this topic and provides guidance to help manage the risks in Japan.

Legal Framework

Legislation

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In Japan, the *Act on Prohibition of Private Monopolization and Maintenance of Fair Trade* (No. 54 of 14 April 1947) (generally referred to as the Antimonopoly Act (AMA)) sets out the basic rules of competition law. Broadly, the AMA prohibits three types of activity:

- Private monopolization (excluding or controlling the commercial activities of other businesses).
- Unreasonable restraint of trade (restricting or coordinating commercial activities with other businesses in a way that fixes, maintains, or increases prices, limits production or products, or other similar conduct).
- Unfair trade practices (for example, boycotts, unjust price discrimination, predatory pricing, resale price maintenance (RPM), abuse of a superior bargaining position, and other practices).

The AMA is not limited to specific areas and applies across industries.

While private monopolization and unreasonable restraint of trade require the level of restriction on competition to be substantial, private monopolization corresponds largely to the abuse of a dominant position under EU competition law, and unreasonable restraint of trade includes almost all illegal cartels.

Unfair trade practices carry a lower standard of proof when compared to private monopolization, as they only require a tendency to impede fair competition (that is, a high probability of the impediment occurring). Unfair trade practices include both unilateral conduct and joint conduct, such as a concerted refusal to trade (also called a collective boycott).

Neither private monopolization nor unfair trade practices necessarily require proof of a dominant position.

Specific competition-related regulatory frameworks for digital markets are provided by:

- The *Act on Promotion of Competition for Specified Smartphone Software (Act No. 58 of 19 June 2024)* (Mobile Software Competition Act) (see *Ex Ante Competition Regulation*).
- The *Act on Improving Transparency and Fairness of Digital Platforms* (Act No. 38 of 3 June 2020) (Transparency Act) (see *Other Regulation in Digital Markets*).

Competition Authority

The *Japan Fair Trade Commission* (JFTC) is responsible for the enforcement of the AMA and the Mobile Software Competition Act. The JFTC is an independent administrative body with general jurisdiction to investigate anti-competitive or otherwise unlawful arrangements and take enforcement action. The JFTC established two dedicated departments for digital markets in April 2020:

- The Office of Policy Planning and Research for Digital Markets at the Economic Affairs Bureau which collects information about the actual status of transactions in the digital market through market studies.

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- The Senior Investigator at the Investigation Bureau who specializes in investigating digital platform companies suspected of AMA violations.

The JFTC usually conducts administrative investigations. However, it can launch criminal investigations, which may entail criminal sanctions, into unreasonable restraint of trade cases (that is, illegal cartels and bid-rigging) and private monopolization cases:

- That are malicious, serious, and expected to have a broad impact on the livelihood of citizens.
- In which the AMA's objectives cannot be achieved by administrative measures, such as for repeated violations.

The JFTC must file an accusation with the Prosecutor General under Article 74 of the AMA if it believes a criminal offense has taken place. Once the accusation has been filed, a prosecutor conducts criminal proceedings in court.

In relation to unfair trade practices, the JFTC can only conduct administrative investigation procedures.

Under the AMA, the JFTC has the power to conduct on-site inspections (dawn raids), issue document submission orders, and issue interrogation orders to:

- Persons involved in a case or a witness, to appear to be interrogated, collect their opinions, or provide a report.
- Expert witnesses, to appear to give expert opinions.
- Persons holding books, documents, and other objects, to submit those objects or maintain those submitted objects at the JFTC.
- Enter any business premises of the persons involved in a case, or other necessary sites, and inspect the conditions of the business's operation and property, books, and documents, and other materials.

The JFTC can issue a cease-and-desist order and a surcharge payment order (an administrative fine).

The Tokyo District Court is the court of first instance for an appeal against these administrative sanctions. The courts may also review the competitive effect of business practices if civil or criminal lawsuits filed with the court involve competition issues.

The JFTC can also file a petition with the Tokyo District Court for an urgent injunction against an alleged violating business operator in cases where waiting for a cease-and-desist order would seriously impede, and result in difficulties in restoring, fair and free competition. In February 2020, the JFTC filed a petition to the Tokyo District Court seeking an urgent injunction against Rakuten imposing the Shipping Inclusive Program Measures. This program prevented the merchants on Rakuten Ichiba (one of the major Japanese online shopping malls) from receiving delivery fees from purchasers. The JFTC considered this constituted an unfair trade practice (that is, an abuse of a superior bargaining position). However, in March 2020, the JFTC withdrew its petition because it recognized that Rakuten allowed the merchants to opt out of the program and there was no longer any urgency.

A third party cannot participate in the JFTC administrative procedure and must challenge anti-competitive agreements or otherwise unlawful arrangements through private litigation (see *Private Enforcement in Digital Markets*).

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The JFTC has been paying close attention to the competitive environment in digital markets and also actively conducts market study and enforcement in digital markets. The JFTC has set up a special page on its official website (see *JFTC: Approaches in the digital market*).

Public Enforcement in Digital Markets

Vertical Agreements

There are no special rules or exemptions applicable to digital markets, and vertical competition issues in digital markets are treated similarly to other markets. A vertical agreement may violate the AMA if it constitutes either private monopolization (Article 3) or an unfair trade practice (Article 19).

Private monopolization is defined as business activities that exclude or control the business activities of other companies and thereby cause, contrary to the public interest, a substantial restraint of competition in a particular relevant market. Article 2, paragraph 5 of the AMA distinguishes between:

- Exclusionary private monopolization. Typical examples of exclusionary private monopolization include:
    - tying;
    - conditional rebates;
    - exclusive dealing;
    - predatory pricing;
    - discriminatory treatment; and
    - refusals to deal.

- Controlling private monopolization. Controlling private monopolization typically occurs when a firm constrains another firm's ability to make independent business decisions with the aim of avoiding competition.

Unfair trade practices embody "the tendency to impede fair competition," which is a lower standard than that of private monopolization. Unfair trade practices may include conduct that can support a finding of private monopolization, and other types of conduct such as RPM and abuse of a superior bargaining position.

Most Favored Nation (MFN) Clauses

MFN clauses may constitute private monopolization or unfair trade practices. The JFTC investigated whether Amazon Japan G.K. (Amazon Japan) had restricted the business activities of sellers on Amazon Marketplace by including price parity clauses and selection parity clauses in their contracts. This conduct could constitute an unfair trade practice, that is, dealing on restrictive terms. During the JFTC's investigation, Amazon Japan proposed to take prompt voluntary measures, including:

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- Deleting those clauses in the sellers' contracts.

- Waiving and not exercising its rights to enforce the price parity and selection parity clauses in those contracts.

The JFTC recognized the proposed measures would eliminate the suspected violation and closed its investigation. (See *Legal Update, JFTC closes investigation into Amazon Japan GK*.)

Similarly, the JFTC investigated whether a wide parity clause that Expedia Lodging Partner Services Sàrl (Expedia) imposed on its business partners constituted dealing on restrictive terms. Expedia's business partners operated accommodation in Japan and sold that accommodation through Expedia's online travel agency. Expedia was suspected of restricting its business partners' activities by requiring them to offer terms on Expedia's website that were at least as favorable as those offered through other travel agencies' websites.

Expedia submitted a commitment plan to the JFTC, including the discontinuation of the conduct for the next three years. The JFTC recognized that the commitment plan would eliminate the conduct and approved it. In the commitment procedure, the JFTC did not include narrow parity clauses for room rates, which would have required Expedia's business partners to offer online terms on Expedia's website that were at least as favorable as those offered on their own direct sales channels, given that at the time the business partners did not necessarily abide by these clauses. (See *Legal Update, Japan: JFTC approves Commitment Plan submitted by Expedia*.)

Exclusive Dealing

Exclusive dealing may constitute exclusionary private monopolization under the AMA and may also be regulated as an unfair trade practice. For example, the JFTC has investigated whether the conduct of Airbnb Ireland UC and Airbnb Japan K.K. (together, Airbnb), an operator of an online accommodation platform, amounted to private monopolization or unfair trade practices (dealing on exclusive terms or dealing on restrictive terms). Airbnb had imposed a contractual restriction on its business partners regarding the listing of private accommodation on rival online websites. During the JFTC's investigation, Airbnb proposed to take prompt voluntary measures, including waiving the right to enforce this restriction. The JFTC recognized the measures would eliminate the suspected violation and closed its investigation. (See *Legal Update, JFTC closes investigation into Airbnb after accepting remedies*.)

Tying

Tying may constitute private monopolization when used to exclude business activities of other firms, thereby causing a substantial restraint on competition. The JFTC examines whether:

- The tying product is provided on the condition that these commercial partners also purchase another product (the tied product).

- This conduct may harm competitors who cannot easily find alternative commercial partners in the market of the tied product.

If the conduct does not amount to private monopolization, it may instead be regulated as an unfair trade practice.

In the Microsoft (Tying) case (December 1998), the JFTC examined Microsoft's requirement that computer manufacturers, such as Fujitsu, NEC, IBM, and Compaq, install Microsoft Excel and Microsoft Word on their products, as well as its subsequent tying of Microsoft Outlook to Word and Excel. The JFTC found that Microsoft's conduct amounted to an unfair trade practice

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that resulted in Word and Outlook having the largest shares in the word processor and schedule management software markets, and ordered Microsoft to cease and desist the tying practices. (See *JFTC: Database of trial decisions, etc., Regarding Microsoft Corp.*)

Vertical Non-Price Restriction

Vertical non-price restrictions such as customer allocation, restricting sales territories, or restricting retailers' sales methods can constitute unfair trade practices if they have a tendency to impede fair competition through a foreclosure or price maintenance effect.

The JFTC investigated whether Apple Japan G.K. (Apple Japan) had imposed unlawful restrictions on the three major mobile network operators (MNOs) in Japan concerning:

- The quantity of iPhones the MNOs ordered.
- The telecommunication service plans the MNOs offered to iPhone users.
- The iPhones that MNOs collected through trade-ins from users.
- The subsidies that the MNOs and other parties offered to users purchasing iPhones.

During the investigation, Apple Japan offered to amend its agreements with the MNOs. The JFTC concluded these were sufficient to resolve any concerns that Apple Japan had unreasonably restricted the business of the MNOs and closed its investigation without issuing any formal orders. (See *Legal Update, JFTC closes Antimonopoly Act investigation into Apple's agreements with mobile network operators*.)

The JFTC has also examined Google LLC's (Google) requests to Android smartphone manufacturers to preinstall and prominently feature Google Search and Chrome on devices through license agreements for Google Play apps and revenue share agreements. The JFTC found that Google's requests unjustly restricted these manufacturers and would have the effect of foreclosing competing search engine providers from transactions with Android smartphone manufacturers. The JFTC issued a cease-and-desist order against Google to stop mandating that its own services be installed and featured prominently on smartphones. This is the first case in which the JFTC has issued a cease-and-desist order against a Big Tech company (see *JFTC: Press Release of 15 April 2025*). This is also the first case where the JFTC first published the commencement of its probe and publicly sought information and comments from third parties. (See *JFTC: Press Release of 23 October 2023*.)

Interference with Competitors' Transactions

Unjustly interfering with competitors' transactions with other parties through vertical agreements can constitute an unfair trade practice. The JFTC examined the conduct of MC Data Plus, Inc. (MC Data Plus), a provider of cloud services for labor safety in the construction industry, which prevented users of this service from switching to competing services. The conduct included restricting the portability of employee (construction worker) data registered by users (construction companies), manual registration of which was burdensome for users, through refusing to provide the data in a format compatible with competing services. The JFTC found that MC Data Plus's conduct amounted to unjust interference with competitors' transactions and ordered it to cease and desist the conduct. (See *JFTC: Press Release of 24 December 2024*.)

On 4 March 2026, the JFTC opened an investigation into suspected violations of the AMA by Microsoft Corporation, Microsoft Japan Co., Ltd., and Microsoft Ireland Operations Limited (Microsoft). Microsoft is suspected of foreclosing competing cloud services providers from transactions related to the provision of cloud services through:

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- Not allowing businesses that have obtained, or may potentially obtain, a license to use Microsoft's software or services such as Windows Server, Windows Client, Microsoft SQL Server, Microsoft 365, and Visual Studio to use such software or services in combination with cloud services that compete with Microsoft Azure.

- Modifying or setting the terms for such software or services so that the cost to users increases when the software or services are used in combination with competing cloud services compared to when the software or services are used on Microsoft Azure.

As part of the investigation, the JFTC sought information and opinions from third parties regarding the suspected violation, until 29 May 2026. (See *JFTC: Press Release of 4 March 2026*.)

Horizontal Agreements

Horizontal agreements such as price-fixing agreements and agreements to allocate markets or customers can constitute unreasonable restraints of trade if they cause a substantial restriction of competition in the relevant market (Article 2, paragraph 6, AMA). There is no special rule or exemption applicable to digital markets, and horizontal competition issues in digital markets are treated similarly to other markets.

The JFTC identifies potential horizontal misconduct (that is, illegal cartels) through *ex officio* investigations, complaints from the general public, and leniency applications. The largest number of preliminary investigations are derived from complaints from the general public. If the JFTC finds a violation of the AMA, it will issue a cease-and-desist order, a surcharge payment order, or both. The JFTC does not publish details of its enforcement action against horizontal agreements in the digital market sector.

Market Studies

Data Collection

The JFTC's Competition Policy Research Center (CPRC) is a cooperative platform grouping external researchers and practitioners, and JFTC staff. The CPRC established two study groups to analyze issues of competition policy and the AMA's relationship with data accumulation and utilization. Each group published a report:

- The *Report of the Study Group on Data and Competition Policy* (June 2017) (see *JFTC: Press Release of 6 June 2017*).

- The *Report of the Study Group on Competition Policy for Data Markets* (June 2021) (see *JFTC: Press Release of 25 June 2021*).

In the context of joint data collection by multiple businesses, the Report of the Study Group on Data and Competition Policy found that:

- Data such as map data and machine malfunction data is sometimes collected jointly with the aim of enhancing safety and convenience. The related technology is sometimes also developed jointly. These initiatives reduce costs and make data mutually complementary, which in turn can create new value through improved safety and convenience. Therefore, joint data collection generally promotes competition.

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- However, if joint data collection makes it possible for competitors to find out the details, prices, and quantities of other businesses' future product launches, and that leads to those competitors colluding, it can result in an unreasonable restraint of trade.

- In markets where data is an important input, if most businesses in a competitive relationship collect data jointly even though they could do so independently, and restrict data collection by individual participants, which substantially restrains competition in the market, it can pose competition issues.

Collusive Use of Algorithms

The JFTC's study group on competition policy in digital markets published the Report on Algorithms/AI and Competition Policy in March 2021 (see *JFTC: Press Release of 31 March 2021*). The report analyzes and provides approaches to concerted practices using algorithms under the AMA.

The analysis of hub-and-spoke type algorithmic concerted practices concludes that the hub (algorithm provider) can play an important role in coordinating competing businesses' prices without those businesses directly exchanging information. In particular, in cases where:

- An algorithm provider supplies a large majority of the price-setting algorithms to multiple businesses without those businesses being aware of price coordination, the algorithm provider may be in violation of the AMA (controlling private monopolization).

- Multiple competing businesses use a price-setting algorithm provided by a single algorithm provider and those businesses are aware that their prices are coordinated, those businesses may be in violation of the AMA (unreasonable restraint of trade). Similarly, where a digital platform operator (DPO) providing a price-setting algorithm informs its business users that the same maximum discount rate will apply to the sale prices of all business users and those business users are aware of this, these business users may be in violation of the AMA (unreasonable restraint of trade).

The report considers algorithms for monitoring the implementation of an agreement or for price-setting based on an agreement, concerted practices by signaling algorithms, and concerted practices by self-learning algorithms, and concludes that, in principle, the AMA can apply to concerted practices by algorithms in many cases.

Specific Markets

Specific market studies can indicate areas of the market economy that are of particular interest to the JFTC, and where it may therefore actively enforce competition law.

The JFTC has been conducting market studies and fact-finding surveys in digital markets and has published 19 market study reports (including two interim reports) since 2019. The JFTC published the Report Regarding Generative AI, Version 1.0 on 6 June 2025 (see *JFTC: Press Release of 6 June 2025*) and the Report Regarding Generative AI, Version 2.0 on 16 April 2026 (see *JFTC: Press Release of 16 April 2026*) which:

- Updated the overview of the generative AI (GenAI) market.

- Added an overview of the autonomous driving market.

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- Reorganized issues under the AMA as "restrictive acts related to dedicated software on mobile OS" and "acts of integrating generative AI into existing digital services."

The JFTC has a dedicated desk for accepting information relating to the AMA and competition policy in GenAI-related markets.

The JFTC published the Final Report Regarding Digital Advertising in 2021 (Digital Advertising Report) (see *JFTC: Press Release of 17 February 2021* and *Final Report Regarding Digital Advertising (Summary)*). The JFTC conducted this market study on the basis that DPOs collect and use a variety of information, including personal information, to display advertisements with content responding to consumers' interests. The JFTC also noted that digital advertising is a major source of revenue for DPOs, as they have a key role in linking media (publishers) and businesses that wish to advertise.

The Digital Advertising Report divides conduct that can pose competition issues into three categories:

- Business-to-business (B2B) transactions.
- Business-to-consumer (B2C) transactions.
- Competition among publishers.

In the context of B2B transactions, the Digital Advertising Report points out that the following conduct can violate the AMA:

- Conduct that could harm trade partners, such as unilateral setting of or changes to terms and conditions, and system changes (abuse of a superior bargaining position).
- Conduct that could restrict business partners' commercial activities, such as restricting transactions with competing DPOs and restricting transactions with leading publishers (trading on exclusive terms, trading on restrictive terms, and private monopolization).
- Conduct that could exclude competitors, such as giving themselves or their related companies preferential treatment, and restricting the use of third-party services (interference with competitors' transactions and private monopolization).

The Digital Advertising Report, together with the Report regarding trade practices on digital platforms (Business-to-Business transactions on online retail platform and app store) published by the JFTC in 2019 (see *JFTC: Press Release of 31 October 2019*), helped establish the Transparency Act (including the addition of a new regulated area) (see *Other Regulation in Digital Markets*).

The JFTC published the Market Study Report on Mobile OS and Mobile App Distribution in 2023 (Mobile OS and Mobile App Distribution Report) (see *JFTC: Press Release of 9 February 2023*). The JFTC conducted this study on the basis that people primarily access digital content and services through smartphones, so businesses have to provide consumers with products or services through apps on mobile OSs and app stores.

The Mobile OS and Mobile App Distribution Report divides conduct that could pose competition issues into three categories:

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- The app market and other smartphone-related markets.
- The app distribution service market.
- The mobile OS market.

The JFTC states that, from a competition policy perspective, it anticipates measures to:

- Prevent self-preferencing in the app market and other smartphone-related markets.
- Ensure fairness in rule-making for the mobile ecosystem.
- Ensure a healthy competitive environment in the app distribution service market and mobile OS market.

This report helped establish the Mobile Software Competition Act (see *Ex Ante Competition Regulation*).

The CPRC also published the Report of Study Group on Business Alliances in July 2019 (see *CPRC: Study Groups*).

Unilateral Conduct

Determining Dominance

When deciding whether to investigate conduct that may amount to exclusionary private monopolization, the JFTC will prioritize a case if:

- The company's product market share exceeds approximately 50% after the conduct begins.
- The company's conduct is deemed to have a serious impact on the lives of citizens after fully considering relevant factors, such as market size, the scope of the business activities of the firm, and the characteristics of the product.

(*Guidelines on Exclusionary Private Monopolization under the AMA* (Exclusionary Private Monopolization Guidelines).)

As there is no safe harbor when product market shares are less than 50%, a company's conduct may still be investigated depending on the type of conduct, market conditions, competitors' positions, and other factors.

Market Definition

Under the AMA, the relevant product or service market is defined using demand-side and supply-side substitutability. The JFTC's approach to market definition is set out in its guidelines regarding merger control review, the *Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination* (Merger Guidelines) (see further *Merger Control*). Although these Guidelines (and the associated cases) are in the context of merger control, the approach to market definition may also be relevant in other situations where the AMA is applicable.

Network Effects

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JFTC guidelines including the Exclusionary Private Monopolization Guidelines, Merger Guidelines, and *Guidelines Concerning Abuse of a Superior Bargaining Position in Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.* (ASBP in Consumer Guidelines) consider network effects as a market characteristic.

The Exclusionary Private Monopolization Guidelines clarify that the network effects should be considered when assessing foreclosure effects (that is, preventing or restricting competitors from accessing inputs or distribution channels) through exclusive dealing. The Guidelines state that where the product market is characterized by network effects, restricting businesses from dealing with competitors' products is more likely to:

- Lower the utility value of the competitors' products.
- Lead to a further decline in the number of users of competing products, as compared to markets where network effects do not exist.

Moreover, the ASBP in Consumer Guidelines recognize that, although data concentration through network effects and economies of scale increases user benefits, the data-based business model, where DPOs accumulate and utilize data, creates cycles which maintain and enhance competitive advantages by further accelerating DPOs' accumulation and use of data.

Types of Conduct That May Be Deemed Abuses of Dominance

Private monopolization in Japan involves demonstrating that competition was substantially restrained through the control or exclusion of other companies. Japanese competition law does not place as much emphasis on establishing legal dominance as other competition regimes. In practice, however, proving a substantial restraint on competition requires evidence that a firm has sufficient market power to control or exclude other companies.

The AMA and the Exclusionary Private Monopolization Guidelines set out a non-exhaustive list of problematic conduct, not specific to digital markets. The Exclusionary Private Monopolization Guidelines set out four types of exclusionary conduct (with reference to past cases):

- Below-cost pricing: depriving competitors of customers by setting such a low price that it does not reflect normal business efforts or normal competitive behavior and makes it difficult for an equally (or more) efficient competitor to compete, thereby possibly undermining competition.
- Exclusive dealing: where a firm deals with its commercial partners on the condition that transactions with the firm's competitors are prohibited or restrained, and the competitors cannot easily find an alternative source of supply or destination, causing difficulties to competitors' business activities and undermining competition.
- Tying: where a firm causes difficulties in its competitors' business activities because they are unable to easily find alternative customers in the market for the tied product. This conduct could be regarded as exclusionary conduct or abuse.
- Refusal to supply and discriminatory treatment: where a firm, beyond a reasonable degree, refuses to supply, imposes quantity or content restrictions, or engages in discriminatory treatment in the upstream market concerning a product necessary for customers to carry out business in the downstream market, causing difficulties for customers who are unable to easily find an alternative upstream supplier and undermining competition in the downstream market.

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Whether a product in the upstream market can be considered necessary for the other party to carry out business activities in the downstream market will be assessed from the viewpoint of whether:

- the product is indispensable for the other party to carry out business activities in the downstream market; and
- it is impossible in reality for the other party to produce the product through its own effort, such as investment and technological development.

The JFTC will prioritize investigating a case of exclusionary private monopolization if the firm's market share exceeds approximately 50% after the conduct begins (Part I, Exclusionary Private Monopolization Guidelines). Therefore, market share is a crucial element when analyzing whether conduct amounts to private monopolization.

The Exclusionary Private Monopolization Guidelines state that, in addition to other standard market analysis components (for example, potential competitive pressure and customer bargaining power) in determining whether the conduct causes a "substantial restraint of competition" in the relevant market, the JFTC may consider:

- Efficiency of business activities that is caused by economies of scale, integration of production facilities, specialization of facilities, reduction of transportation costs, and the improvement in efficiency of research and development systems.
- Special circumstances in relation to the protection of consumer interests.

(Part III, 2(2)D and E, Exclusionary Private Monopolization Guidelines.)

The Airbnb case (see *Vertical Agreements*), which involved a kind of exclusive dealing, is an example of suspected private monopolization in relation to digital markets.

In addition, the JFTC recently investigated whether Google LLC had:

- Made it difficult for Yahoo! Japan to compete with Google in mobile syndication transactions (in which a search advertising provider, such as Google and Yahoo! Japan, distributes search advertising to advertising spaces provided by websites and shares a portion of the revenue generated by the search advertising with them).
- Committed private monopolization or an unfair trade practice, by amending an agreement to provide technology for search engines and search advertising to Yahoo! Japan.
- Restricted the provision of technologies necessary for mobile syndication transactions to Yahoo! Japan.

Google submitted a commitment plan (including voluntary measures) to address the competition concerns, such as a commitment not to restrict the provision of technologies for mobile syndication transactions to Yahoo! Japan for the next three years, except in cases where the JFTC considers there are reasonable grounds and grants prior approval for doing so. The JFTC recognized these measures were sufficient to address its concerns and closed the case without determining whether Google violated the AMA. (See *Legal Update, Japan: JFTC approves commitment plan submitted by Google LLC*.)

Self-Preferencing

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The JFTC market studies relating to digital markets sometimes refer to certain types of self-preferencing conduct that can lead to private monopolization concerns. For example, the Mobile OS and Mobile App Distribution Report (see *Specific Markets*) states that self-preferencing conduct could pose private monopolization issues in:

- Mobile OS-related matters: restricting app developers' access to smartphone functions and providing unfavorable updates for competitors.
- App store management-related matters: disadvantageous treatment in rankings and app reviews and imposing fees.
- Data use-related matters: use of data generated from other developers' third-party apps and use of data collected on reviewing apps.
- Influencing a consumer's rational choice-related matters: pre-installation, default settings, and non-removable specifications of apps.

Abuse of Economic Dominance

The concept of abuse of economic dominance in some jurisdictions is known as an abuse of a superior bargaining position under the AMA. This refers to where a party makes use of its superior bargaining position over a business partner unjustly, contrary to normal business practices. A "superior bargaining position" means a superior position relative to the counterparty in the transaction.

The Rakuten case (see *Competition Authority*) is a case of suspected abuse of superior bargaining position in relation to digital markets. Similarly, the JFTC investigated whether Amazon Japan G.K. (Amazon) abused its superior bargaining position with suppliers, from whom Amazon purchases products for sale, by:

- Unreasonably decreasing the purchase price.
- Requesting suppliers to provide monetary benefits.
- Returning products.

Amazon submitted a commitment plan including voluntary measures to address the competition concerns, such as a commitment to cease this conduct and to provide monetary compensation to affected suppliers. The JFTC recognized these measures were sufficient to address its concerns and closed the case without determining whether Amazon violated the AMA. (See *JFTC: Press Release of 10 September 2020*.)

Abuse of Superior Bargaining Position in Relation to Consumers

Although abuse of superior bargaining position usually arises in connection with B2B transactions, the JFTC has clarified that the rules concerning abuse of a superior bargaining position can apply to the relationship between DPOs and consumers providing personal information as consideration for the DPOs' services (ASBP in Consumer Guidelines). When consumers provide personal information in exchange for using a DPO service, they are considered a counterparty in the transaction with the DPO. If these consumers, even though suffering detrimental treatment from a DPO, are obliged to accept that treatment to use the DPO's services, the DPO is deemed to have a superior bargaining position to those consumers.

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For example, the following DPO conduct may fall under abuse of a superior bargaining position:

- Unjustifiable acquisition of personal information:
    - acquiring personal information without stating the use purpose to consumers;
    - acquiring personal information contrary to consumers' intention beyond the scope necessary to achieve the use purpose;
    - acquiring personal data without taking the precautions necessary and appropriate for safe management of the personal information; and
    - causing consumers who regularly use DPO services to provide personal information, in addition to the consideration provided in exchange for the services.
- Unjustifiable use of personal information:
    - using personal information contrary to consumers' intention beyond the scope necessary to achieve the use purpose; and
    - using personal data without taking the precautions necessary and appropriate for the safe management of the personal information.

Merger Control

The following categories of transactions are regulated by the merger control provisions of the AMA:

- Share acquisitions.
- Statutory mergers.
- Statutory demergers.
- Joint share transfers.
- Business transfers including:
    - the transfer of all or a significant part of the business of another company;
    - the transfer of all or significant business-related fixed assets of another company;

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    - leases of all or significant businesses of another company;
    - delegation of management regarding all or significant businesses of another company; and
    - contractual arrangements to share business profits and losses of another company.

- Appointment of interlocking directorships.

Transactions that cause a substantial restraint of competition are prohibited. Where the jurisdictional thresholds are met (see *Quick Compare Chart, Merger Control: Jurisdictional Thresholds*), corporate share acquisitions, statutory mergers, statutory demergers, joint share transfers, and transfers of businesses or transfers of business-related fixed assets must be notified to the JFTC (Articles 10(2), 15(2), 15-2(2), 15-3(2), and 16(2), AMA). The transaction must not be implemented before the waiting period expires (Articles 10(8), 15(3), 15-2(4), 15-3(3), and 16(3), AMA).

The JFTC's authority to review transactions involving digital markets is the same as for other mergers. There are no special jurisdictional thresholds that apply to digital mergers under the AMA. However, the JFTC amended the Policies Concerning Procedures of Review of Business Combination (Merger Policies) in 2019 (see *JFTC: Press Release of 17 December 2019*) to address the issue of "killer acquisitions" (where a large company, often in the pharmaceutical or technology sector, buys out a potential competitor before the latter can challenge its competitive position). The amendment clarifies that the JFTC can review M&A transactions that do not meet the mandatory notification thresholds if both:

- The total amount of the consideration is substantial.
- The transaction is expected to negatively impact domestic consumers.

The JFTC recommends filing a voluntary notification for transactions not subject to the mandatory notification requirement if:

- The total consideration for the acquisition exceeds JPY40 billion.
- The transaction is expected to negatively affect domestic consumers (for example, the target company has domestic sales of more than JPY100 million).

(Section 6(2), Merger Policies.)

Market Definition

If a platform, to provide a "place" for third parties, creates a multi-sided market where there are multiple and different user segments, essentially, the JFTC will define a relevant market for each user segment and then consider the characteristics of the multi-sided market.

The market definition may sometimes be constituted by a certain product's scope while another wider (or narrower) overlapping market is also defined. For example, if a platform mediates business transactions between different user segments and causes

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strong indirect network effects, there are some cases where the market definition comprising each user segment will be defined in an overlapping manner.

Where there is competition, in principle based on both the price of the product and its quality (as is the case with some Internet-based services), when assessing demand-side substitutability, the JFTC considers the extent to which customers replace the product with another product if a product deteriorates in quality, or where customers bear the increased costs of being offered a product.

Substantive Assessment

The JFTC standard for review of the competitive impact of a merger (including a merger involving digital markets) is whether the merger "may substantially restrain competition."

In terms of network effects (which are common in digital mergers), the Merger Guidelines distinguish between direct and indirect network effects when determining a merger's impact on competition as follows:

- Direct network effects. If two companies merge, see their products increase in value as the result of having a certain number of users post-merger and, as a result, expect to see a further increase in the number of users of the merged entity's products, the JFTC will consider these direct network effects when determining the merger's effect on competition. Where many of the users use only one service (single-homing), direct network effects are considered to affect competition more than when many of the users use multiple services (multi-homing).

- Indirect network effects. If, after a merger in a platform-based multi-sided market, the merged entity has a certain number of users in one market which result in the value of its product increasing in another market, the JFTC will consider these indirect network effects when determining the merger's effects on competition.

For example, in August 2020, the JFTC granted conditional clearance to the merger between Z Holdings Corporation (owner of Yahoo! Japan) and LINE Corporation (part of the NAVER group), based on an assessment of indirect network effects and the parties' proposed remedies. The JFTC reviewed three overlapping businesses between the parties:

- Internet news distribution services.

- Code-based payment businesses.

- Digital advertisement businesses.

The JFTC defined the code-based payment business as a multi-sided market, that is, a B2C market for consumers and a B2B market for member stores. The JFTC concluded that competition in those markets would not be restricted by the proposed merger, even taking into account indirect network effects, if the parties implemented their remedies, including annual reporting on fees. (See *JFTC: Press Release of 4 August 2020*.)

Remedies

The JFTC has the authority to mandate any measures necessary to eliminate violations of the AMA merger control provisions (Article 17-2(1), AMA). While the JFTC clarifies in the Merger Guidelines that there is a general preference for structural over behavioral remedies, the JFTC has published seven major merger review cases involving the digital sector, three of which

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required only behavioral remedies. For example, in M3, Inc.'s acquisition of shares in Nihon Ultmarc Inc., the remedies proposed by the parties and accepted by the JFTC included:

- The continued provision of important data to competitors.
- A commitment to refrain from discriminatory treatment of competitors regarding prices and other trade terms for an indefinite period.

(See *JFTC: Press Release of 24 October 2019*.)

For more information on merger control in Japan, see:

- *Private Mergers & Acquisitions Toolkit (Japan)*.
- *Practice Note, Public Mergers and Acquisitions in Japan*.
- *Japan Merger Notifications Flowchart*.

To view and customize comparison charts on merger control, see *Quick Compare Chart, Merger Control*.

Ex Ante Competition Regulation

The Mobile Software Competition Act (enacted in June 2024) is similar to the *Digital Markets Act ((EU) 2022/1925)* in that it provides for the JFTC's ex-ante regulation. However, its scope is narrower (as it was established to develop a competitive environment for software used in smartphones), and is only applicable to "specified software," that is:

- Mobile operating systems (OS) for smartphones.
- App stores for smartphones.
- Browsers for smartphones.
- Search engines for smartphones.

The Mobile Software Competition Act partially came into effect in December 2024, and in March 2025 the JFTC designated certain large operators providing specified software as regulated businesses, given that the scale of their operations may exclude or control the commercial activities of other businesses (designated operators). Cabinet Order No. 376 of 2024 sets out quantitative criteria of 40 million annual monthly average users of each specified software (see *JFTC: Cabinet Order Specifying Business Scale under Article 3, Paragraph 1 of the Act on Promotion of Competition for Specified Smartphone Software (Excerpt)*). Designated operators are objectively determined based on these criteria and third parties are not involved in the designation procedure.

To date, the Mobile Software Competition Act is applicable to the following designated operators:

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- Apple Inc. for OS, app stores, and browsers.
- iTunes K.K. for app stores.
- Google LLC for OS, app stores, browsers, and search engines.

The substantive obligations under the Mobile Software Competition Act also came into full force in December 2025 and their actual scope is subject to subordinate rules and the *Mobile Software Competition Act Guidelines (July 2025)* published by the JFTC.The Mobile Software Competition Act Guidelines contain illustrative cases and are considerably more detailed than the guidelines previously published by the JFTC.

The Mobile Software Competition Act consists of two categories of regulations: prohibited conduct ("don'ts") and compliance requirements ("dos").

Prohibited conduct includes:

- Prohibiting mobile OS providers from restricting third-party app stores (Article 7(1)).
- Prohibiting mobile OS providers from restricting app developers' use of the equivalent functionalities controlled by the mobile OS, ensuring interoperability (Article 7(2)).
- Prohibiting app store providers from restricting third-party billing systems (Article 8(1)) and making anti-steering arrangements (Article 8(2)).
- Prohibiting search engine providers from engaging in preferential treatment of their products or services over those of competitors in search results (Article 9).

Compliance requirements include:

- Requiring OS/app store/browser providers to ensure data portability (Article 11).
- Requiring mobile OS/browser providers to make smartphone default settings easy to change and offer choice screens (Article 12).

To ensure regulatory effectiveness, the JFTC requires that the designated operators submit annual compliance reports regarding their compliance status. The first annual compliance reports since the Mobile Software Competition Act came into full effect were published in February 2026.

Each category of conduct entails different enforcement mechanisms. The JFTC can issue:

- A cease-and-desist order for prohibited conduct.

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- A surcharge payment order only where designated operators violate certain prohibited conduct (Articles 7(1) and (2) and 8(1) and (2)), with an administrative fine of up to 20% of turnover during the period of violation for:
    - app store fees (Articles 7(1) and 8(2));
    - apps that use restricted functions (Article 7(2)); and
    - billing system service fees (Article 8(1)).

- Recommendations on how to comply properly where designated operators violate compliance requirements.
- Orders to take certain measures specified by the recommendation if they fail to implement the recommendations.

As the Mobile Software Competition Act supplements the AMA, competition issues not covered by the Mobile Software Competition Act will be enforced under the AMA.

Other Regulation in Digital Markets

In 2018, the *Ministry of Economy, Trade, and Industry* (METI), the *Ministry of Internal Affairs and Communications* (MIC), and the JFTC established the *Study Group on Improvement of Trading Environment Surrounding Digital Platforms* in 2018. The Study Group published:

- *Options for Establishing Rules to Ensure Transparency and Fairness in the Trading Environment*.
- *Options for Data Transfer, Disclosure, etc*.

In response, the Japanese government introduced a new legal framework to regulate digital platforms. The Transparency Act applies to specific products or services provided by digital platforms that are designated by the Japanese government. (To adapt to rapid changes in the digital markets, more products and services can be added by a Cabinet Order.) The Japanese government has to date designated:

- E-commerce platform operators Amazon, Rakuten, and Yahoo! Japan.
- Digital ad platform providers Google, Meta, and Yahoo! Japan.

The Japanese government used to regulate smartphone app store operators under the Transparency Act. However, smartphone app stores are now regulated by the Mobile Software Competition Act (following its full implementation).

The Transparency Act is prospective and requires designated DPOs to take measures to improve transparency and fairness in their transactions with users. These requirements can be categorized by:

- Disclosure of terms and conditions to users (Article 5-1 and 5-2).

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- Provision of notification to users (Article 5-3 and 5-4).
- Taking measures necessary for improving mutual understanding with users according to the guidelines provided by the government (Article 7).
- Submission of annual reports to the government (Article 9).

METI, not the JFTC, supervises and enforces the Transparency Act. METI monitors the designated DPOs' activities and publishes an annual report based on information submitted by them. If a designated DPO does not comply with the disclosure requirements or fails to take measures according to the guidelines under the Transparency Act, METI may issue recommendations to rectify the non-compliance. The Transparency Act emphasizes voluntary rectification, but METI can issue orders, if necessary.

Under the Transparency Act, METI:

- Must consult the MIC in advance when METI assesses annual reports submitted by DPOs.
- Will consult the MIC and JFTC in advance when METI adopts the *Guidelines on Measures to Be Taken by Specified Digital Platform Providers to Promote Mutual Understanding in Transactional Relationships with User Providing Goods* (*Japanese Law Translation*).
- Can (or must in some cases) request the JFTC to take appropriate measures when a designated DPO is found to have engaged in unfair trade practices prohibited by the AMA.

International Context

In November 2023, the JFTC, in collaboration with the Secretariat of the Headquarters for the Digital Market Competition (HDMC), hosted the G7 Joint Competition Enforcers and Policy Makers Summit in Tokyo. At this Summit, the heads of competition authorities, policymakers, and the *Organization for Economic Co-operation and Development* (OECD) discussed competition in digital markets including:

- Competition authorities' priorities, challenges, and approaches.
- The latest developments in policy initiatives and frameworks.
- Common issues and challenges related to the establishment and enforcement of regulatory measures.
- How to deal with Big Tech companies that are expanding their activities.

The G7 competition authorities and policymakers adopted the *Digital Competition Communiqué* which outlines approaches to promoting and maintaining competition in digital markets and addresses competition concerns that may arise. In addition, the G7 competition authorities, as well as those from Australia, India, South Africa, and South Korea, updated the Compendium of approaches to improving competition in digital markets which sets out common approaches such as:

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- Establishing a team of technical experts and research.
- Law enforcement.
- Considering or implementing legal reforms to strengthen law enforcement tools or introduce new regulations.
- Cooperation in domestic and international regulation.

(See *Gov.uk: 2023 Compendium of approaches to improving competition in digital markets*.)

In addition, the JFTC states in several digital-related market studies that it will continue to exchange opinions with competition authorities in various jurisdictions and will utilize forums such as the International Competition Network (ICN) and the OECD to maintain cooperation with overseas competition authorities and improve the competitive environment.

In individual investigations and merger control reviews, the JFTC collaborates (for example, through exchange of information) with overseas competition authorities, as necessary.

Private Enforcement in Digital Markets

Private Litigation

Private parties can claim competition-related damages under:

- Article 709 of the *Civil Code* (Act No. 89 of 27 April 1896). This is a standalone claim based on the general tort provision.
- Article 25 of the AMA, even if the conduct was not intentional or negligent (contrary to the general rules under Article 709 of the Civil Code). This is a follow-on claim and requires a final and conclusive JFTC formal order finding a competition violation (Article 26(1), AMA).

There is no class or collective action regime in Japan.

Private parties can also seek injunction orders against conduct falling under unfair trade practices under Article 24 of the AMA when this conduct both:

- Violates or is likely to violate their interests.
- Causes, or is likely to cause, them to suffer extreme damage.

Parties can seek an injunction against an unfair trade practice without a final and conclusive JFTC order.

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Private parties often challenge the effectiveness or enforceability of another party's contractual arrangements or IP rights enforcement in private litigation, as a violation of the AMA.

Hanryumura, which operated a Korean restaurant chain called Kollabo, claimed damages and injunctive relief against a digital platform, Kakaku.com, which operated several price comparison sites including a restaurant ranking site called Tabelog.

In June 2022, the 8th Division of the Tokyo District Court (which specializes in commercial matters including competition issue-related private claims) found that Kakaku.com had a superior bargaining position compared to a restaurant operator such as Hanryumura, which could be forced to accept even extremely disadvantageous terms. The Court held that the manipulation of the Tabelog algorithm to demote Kollabo's ranking constituted the unfair trade practices of discriminatory treatment and abuse of superior bargaining position and violated the AMA. The Court ordered Kakaku.com to pay damages. During judicial proceedings, the Court requested the JFTC to provide its opinion. (Tokyo District Court, Reiwa 2 (Wa)12735, 16 June 2022.)

Contrary to this decision, in January 2024, the Tokyo High Court on appeal dismissed both the damages claim and the injunctive relief claim. It agreed that Kakaku.com held a superior bargaining position to Hanryumura, and had imposed a disadvantage on Hanryumura, but Kakaku.com had not engaged in the conduct "unjustly in light of normal business practices," which is required for an abuse of a superior bargaining position under the AMA. (Tokyo High Court, Reiwa 4 (Ne)3422, 19 January 2024.)

Administrative Proceedings

Any private party can report conduct to the JFTC and request that appropriate measures be taken if they suspect:

- Other private parties, including digital companies, have violated the AMA.
- Designated operators have violated the Mobile Software Competition Act.

The JFTC is required to carry out at least a preliminary investigation.

Additionally, any digital platform user who suspects that there has been a violation of the Transparency Act by a specified DPO can report this to METI and request that appropriate measures be taken.

Other Considerations

In June 2022, the JFTC published its policy *Towards the Active Promotion of Competition Policy in response to Socioeconomic Changes as represented by Digitalization – Coordination and Strengthening of Advocacy and Enforcement*. In this policy, the JFTC stated that it will diversify its information-gathering tools by, for example, publishing a summary of individual cases and soliciting information and opinions when investigating DPOs' suspected violations of the AMA. Based on this statement, in October 2023, the JFTC solicited information and opinions for the first time in the early stages of its investigation into whether Google LLC had excluded the business activities of its competitors or restricted the business activities of its counterparties (see *Vertical Non-Price Restriction*). More recently, in March 2026, the JFTC publicly sought information to investigate Microsoft's suspected interference with the business of competing cloud service providers (see *Interference with Competitors' Transactions*).

In January 2026, the JFTC published its statement *Proactive Development of Competition Policy for Promotion of Innovation - Roles of the JFTC in Our Changing Times*. In relation to the digital sector, the JFTC stated that it will promote a competitive market environment through dialogue with market participants so that innovation will not be unduly restricted while closely monitoring market trends related to new technologies such as GenAI.

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In addition, the JFTC has specialized personnel, such as digital special advisors and digital analysts, to effectively promote competition policy in this rapidly changing digital field. Digital special advisors with expertise in specific areas (including 5G, AI, digital advertising, and privacy) and digital analysts advise on JFTC market studies and collect cutting-edge information on market trends and technological developments. Digital analysts also conduct research and data analysis and propose policies under the direction of a chief technologist.

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