

Cease and Desist Order against Japanese Society for Rights of Authors, Composers and Publishers <Tentative translation>

February 27, 2009
Japan Fair Trade Commission

The Japan Fair Trade Commission (hereinafter “JFTC”) had investigated Japanese Society for Rights of Authors, Composers and Publishers (hereinafter referred to as “JASRAC”) in accordance with the Antimonopoly Act (hereinafter “AMA”) and found that JASRAC has been engaging in activities that violate Article 3 (prohibition of private monopolization) of the AMA. Accordingly, the JFTC today issued a cease and desist order against JASRAC, pursuant to the provision of Paragraph 1, Article 7 of the AMA.

1. Violator

Name	Japanese Society for Rights of Authors, Composers and Publishers
Address	3-6-12 Uehara, Shibuya-ku, Tokyo
Representative	Mamoru Kato, President
Main Business	Copyright management business associated with the copyright of musical works (hereinafter referred to as “musical copyrights”), etc.

2. Outline of the violation

(1) In calculating royalties for broadcasting, etc. collected from the broadcasters ^(Note 1) by method of comprehensive collection (the method to grant licenses of managed music works as a whole associated with broadcasting, etc. to the broadcasters and calculate and collect the royalties for broadcasting, etc. in a comprehensive manner), JASRAC adopts a method where the percentage of use for broadcasting, etc. ^(Note 2) is not reflected in the royalties. This makes the total amount of royalties for broadcasting, etc. paid by such broadcasters increase by the amount paid to other management business operators ^(Note 3) if such broadcasters also pay them the royalties for broadcasting, etc.

(Note 1) “The broadcasters” means that the broadcasters (as defined in Item 3-2, Article 2 of the Broadcast Law (Law No. 132 of 1950)), and the broadcasters on the telecommunications service (as defined in Paragraph 3, Article 2 of the Law Concerning Broadcast on Telecommunications Service (Law No. 85 of 2001)) which engage in broadcasting on satellite service (“broadcasting on satellite service” is as defined in the Enforcement Ordinance of the Law Concerning Broadcast on Telecommunications Service (the Ordinance for the Ministry of Internal Affairs and Communications No. 5 of 2002)) , both of which receive licenses of the musical works from the copyright management business operators for the copyrights of the musical works to use them for broadcasting, etc.

(Note 2) “The percentage of use for broadcasting, etc.” means that the percentage of the musical works whose copyrights are managed by JASRAC in the total number of musical works used by such broadcasters in the broadcast programs including commercials produced by the broadcasters for their own broadcasting.

(Note 3) “Management business operators” means that the copyright management business operators

for the musical copyrights

(2) This led the management business operators other than JASRAC to face difficulties in engaging in the management business associated with broadcasting, etc. because their managed music works associated with broadcasting, etc. are hardly used in the broadcast programs, and also because they can hardly secure the musical works expected to be used for broadcasting, etc. as managed music works associated with broadcasting, etc..

(3) According to the conduct described in above (1), by excluding the business activities of other management business operators, JASRAC is substantially restraining competition in the field of licensing of the managed music works associated with broadcasting, etc. for the broadcasters in Japan, which is contrary to public interest.

3. Outline of the cease and desist order

(1) JASRAC shall discontinue the conduct described in 2. (1) above.

(2) JASRAC shall pass resolutions at a Meeting of the Board of Directors to the effect that it will discontinue the conduct as described in the preceding paragraph and that it will not commit any similar conduct as provided in the preceding paragraph in future.

(3) JASRAC shall obtain prior approval from the JFTC on the methods to collect the royalties for broadcasting, etc. adopted as it discontinues the conduct as described in Paragraph 1.

(4) JASRAC shall notify the measures taken pursuant to Paragraphs 1 and 2 to the broadcasters, other management business operators and any person who consigns the management of the copyrights of the musical works to JASRAC.

(5) JASRAC shall not commit any conduct similar to the conduct as provided in Paragraph 1 in the future.

(6) JASRAC shall promptly report the measures taken pursuant to Paragraphs 1, 2 and 4 to the JFTC.