

Closing the Investigation on the Suspected Violation of the Antimonopoly Act by  
Amazon Japan G.K.

June 1, 2017  
Japan Fair Trade Commission

The Japan Fair Trade Commission (the "JFTC") has investigated Amazon Japan G.K. in accordance with the provisions of the Antimonopoly Act as Amazon Japan G.K. has been suspected to restrict business activities of the sellers<sup>(Note 1)</sup> in Amazon Marketplace<sup>(Note 2)</sup> by including the price parity clauses<sup>(Note 3)</sup> and the selection parity clauses<sup>(Note 4)</sup> in the seller contracts.<sup>(Note 5)</sup>

During the JFTC's investigation, Amazon Japan G.K. proposed to promptly take voluntary measures. As a result of the JFTC's review on this proposal, the JFTC recognized these measures would eliminate the suspected violation mentioned above and decided to close the investigation on this case.

- (Note 1) Entities which offer and sell goods in an online shopping mall, including ones which open a store to offer and sell goods in an online shopping mall
- (Note 2) The online shopping mall opened on the Amazon.co.jp website and operated by Amazon Japan G.K.
- (Note 3) Clauses to require sellers to ensure that prices and sales terms for products they sell in Amazon Marketplace are the most advantageous for purchasers among the prices and sales terms for identical products they sell via other sales channels
- (Note 4) Clauses to require sellers to offer in Amazon Marketplace all variations in color and size, etc. of all products they sell via other sales channels
- (Note 5) Suspected violation of the provisions of Article 19 (paragraph 12 [Trading on Restrictive Terms]) of the Antimonopoly Act

I. Investigation of the Case

1. Overview of Amazon Japan G.K.

Corporate No.	3040001028447
Corporate Name	Amazon Japan G.K.
Address	1-8-1 Shimomeguro, Meguro-ku, Tokyo
Managing Member	Amazon Overseas Holdings, Inc.
Executive Officers	Jasper Cheung, Jeffrey Hayashida
Establishment	On May 1, 2016, Amazon Japan K.K. and Amazon Japan Logistics K.K. merged and Amazon Japan Logistics K.K., the surviving company, was reorganized into Amazon Japan G.K.

## 2. Online Shopping Mall Market

Major online shopping malls in Japan include Rakuten and Yahoo! Shopping, in addition to Amazon Marketplace. Operators of these online shopping malls enable sellers to sell goods to general consumers in their malls. Most operators collect fees from those sellers. Some adopt a system to allow sellers to only offer and sell goods in their malls, while others adopt a system to allow sellers to open their shops in their malls to offer and sell goods. Transaction modes are thus not uniform.

Amazon Japan G.K. operates Amazon Marketplace and also sells goods to general consumers on the Amazon.co.jp website.

## 3. Price Parity Clauses and Selection Parity Clauses in the Seller Contracts on Amazon Marketplace

- (1) Entities which intend to sell goods in Amazon Marketplace are allowed to do so by concluding seller contracts with Amazon Services International, Inc. (a U.S. corporation) up to April 30, 2016, and with Amazon Japan G.K. on or after May 1, 2016.
- (2) Conditions stipulated in the Amazon Marketplace Participation Agreement, one of the seller contracts, are applied to all sellers, and almost all sellers are required to agree with the conditions stipulated in the Amazon Service Business Solution Agreement, another of the seller contracts, in advance. These agreements contain price parity clauses.
- (3) Some sellers have concluded other seller contracts than the Amazon Marketplace Participation Agreement and the Amazon Service Business Solution Agreement mentioned in (2) above, and these other seller contracts contain selection parity clauses.
- (4) On May 1, 2016, Amazon Services International, Inc. transferred all seller contracts which it had concluded with sellers up to April 30, 2016, to Amazon Japan Logistics K.K. (see the "Establishment" column in the Table in 1 above). Accordingly, the other party of all seller contracts concluded with sellers is now Amazon Japan G.K.

## 4. Surveys on the Price Parity Clauses and Selection Parity Clauses Conducted by Amazon Japan K.K. and Amazon Japan G.K.

- (1) Up to around October 2015, Amazon Japan K.K. (see the "Establishment" column in the Table in 1 above) conducted surveys on prices or sales terms for goods sold in Amazon Marketplace by some sellers in order to ascertain the status of their compliance with the price parity clauses. When any non-compliance was found as a result of these surveys, Amazon Japan K.K. sometimes gave a notice or an explanation, to the relevant sellers to remind them of the fact that seller contracts included the price parity clauses.
- (2) Since around January 2017, Amazon Japan G.K. has conducted surveys on lineups offered in Amazon Marketplace by some sellers in order to ascertain the status of their compliance with the selection parity clauses. When any non-compliance is found as a result of these surveys, Amazon Japan G.K. sometimes requests the relevant sellers to expand a lineup of goods in Amazon Marketplace.

## 5. Concerns over the Influence of the Price Parity Clauses and Selection Parity Clauses on Competition

When an online shopping mall operator imposes price parity clauses and selection parity clauses (see the Appendix) on sellers, such clauses may exert influence as shown below to negatively affect competition.

- (i) Restrict sellers' business activities by limiting reduction of prices and expansions of lineups of goods that the sellers sell via other sales channels
- (ii) Distort competition among online shopping mall operators by allowing an online shopping mall operator imposing those parity clauses to achieve the lowest price and the richest lineup of goods sold in its online shopping mall without making any competitive effort
- (iii) Reduce online shopping mall operators' incentive for innovation and hinder new entrants' as the reduction of fees charged by an online shopping mall operator for sellers does not result in these sellers' reduction of prices and expansion of lineups

#### 6. Measures Proposed by Amazon Japan G.K.

In the process of this investigation, Amazon Japan G.K. made a proposal to the JFTC to promptly take voluntary measures outlined below.

- (i) Amazon Japan G.K. will, promptly after the confirmation by the JFTC, delete the price parity clauses from concluded valid seller contracts, or will waive and will not exercise its rights in relation to the price parity clauses and selection parity clauses in those seller contracts. Amazon Japan G.K. also pledges not to newly specify price parity clauses and selection parity clauses in those seller contracts. Amazon Japan G.K. will disseminate these measures to all sellers.
- (ii) Amazon Japan G.K. pledges not to specify price parity clauses and selection parity clauses in seller contracts which it concludes after taking the measures mentioned in (i) above.
- (iii) Promptly after taking the measures mentioned in (i) above, Amazon Japan G.K. will disseminate the fact that it took the measures mentioned in (i) and (ii) above to its staff who engage in negotiations with and respond to inquiries from sellers.
- (iv) Amazon Japan G.K. will annually report the implementation status of the measures mentioned in (i) to (iii) above to the JFTC in writing for three years from the day on which it took the measures mentioned in (iii) above.

#### 7. Responses by the JFTC

The JFTC recognized that the measures proposed by Amazon Japan G.K. as outlined in 6 above would eliminate the suspected violation of the Antimonopoly Act and decided to close the investigation on this case after confirming that the measures mentioned in (i) to (iii) of 6 above have been actually taken.

#### II. JFTC's Initiatives against Suspected Violations of the Antimonopoly Act in the IT/Digital Sector

In the case where the JFTC receives information regarding a suspected violation of the Antimonopoly Act in the IT/digital sector, its IT Task Force conducts an investigation in an efficient manner.

Also, for the purpose of receiving the information regarding a suspected violation of the Antimonopoly Act in the IT/digital sector, the JFTC has set the special contact point (see the following website for details).

[http://www.jftc.go.jp/houdou/pressrelease/h28/oct/161021\\_3.html](http://www.jftc.go.jp/houdou/pressrelease/h28/oct/161021_3.html)

The JFTC will continuously monitor the status of the competition in the IT/digital sector including the online shopping mall business and online transactions from the perspective of promoting free and fair competition.