

Closing the Investigation on the Suspected Violation of the Antimonopoly Act by
Airbnb Ireland UC and Airbnb Japan K.K.

October 10, 2018
Japan Fair Trade Commission

The Japan Fair Trade Commission (hereinafter referred to as the “JFTC”) has investigated Airbnb Ireland UC and Airbnb Japan K.K. (hereinafter collectively referred to as “Airbnb”) in accordance with the provisions of the Antimonopoly Act as Airbnb, by prescribing the provisions which restrict listing of accommodation services using houses (hereinafter referred to as “Private Lodging Service”) on websites which intermediate between providers and users of Private Lodging Services (hereinafter referred to as “Private Lodging Service Platform”) other than that operated by Airbnb Ireland UC^(Note 1) (hereinafter referred to as “Airbnb website”) by using application programming interface^(Note 2) (hereinafter referred to as “API”) in the contracts between Airbnb Ireland UC and its trading partners who list the Private Lodging Services on Airbnb website by using API, has been suspected to restrict business activities of these trading partners^(Note 3).

During the JFTC’s investigation, Airbnb proposed to promptly take measures to waive its rights to enforce the provisions regarding the abovementioned restriction in the contracts. As a result of the JFTC’s review on this proposal, the JFTC recognized these measures would eliminate the abovementioned suspicion and decided to close the investigation on this case.

(Note 1) Since June 2018, Airbnb Global Services Limited has been registered as a private lodging agent prescribed in Article 2, paragraph 10 of the Private Lodging Business Act (Act No. 65 of 2017).

(Note 2) Application programming interface is a software intermediary which enables data coordination among software mainly via the Internet.

(Note 3) Suspected violation of the provisions of Article 3 (Private Monopolization) or Article 19 (paragraph 11 [Trading on Exclusive Terms] or paragraph 12 [Trading on Restrictive Terms]) of the Antimonopoly Act

I. Overview of the Case

1. Overview of Airbnb

Corporate Name	Airbnb Ireland UC
Address	25/28 North Wall Quay, Dublin 1, Ireland
Director	Eoin Hession

Corporate Name	Airbnb Japan K.K.
Corporate No.	1010401110131
Address	1-14-11 Nishishinjuku, Shinjuku-ku, Tokyo
Representative Director	Yasuyuki Tanabe

2. Private Lodging Service Platform, etc.

(1) Private Lodging Service Platform

Private Lodging Service Platform is a website which shows listing of Private Lodging Services provided by house owners, etc. (hereinafter referred to as “Hosts”) or by providers of Co-hosting Service mentioned in (2) below who are entrusted with the management of Private Lodging Services by Hosts, to users (hereinafter referred to as “Guests”).

As Private Lodging Service Platforms using houses located in Japan, other than Airbnb website, there are websites operated by foreign companies and those operated by domestic companies.

(2) Co-hosting Service

Co-hosting Service is a service which, based on the entrustment by Hosts, takes care of listing of Private Lodging Services on Private Lodging Service Platforms, management of reservations of Private Lodging Services, cleaning of houses, and responding to inquiries from Guests.

(3) Management Tool

A Management Tool is a system tool used by Co-hosting Service Providers or Hosts to manage Private Lodging Services. Co-hosting Services Providers, etc., even in the case where they list Private Lodging Services on plural Private Lodging Service Platforms, by using Management Tool connected to Private Lodging Service Platforms with API, can manage reservations of Private Lodging Services, exchange messages with Guests, set prices, etc. in an integrated fashion, and thereby they can raise efficiency of their businesses and reduce their management costs. Therefore, Management Tools connected to Private Lodging Service Platforms with API are widely used by Co-hosting Service Providers, etc.

3. Airbnb’s Contract

Since June 2017 Airbnb Ireland UC has concluded the contracts regarding use of its API with some Co-hosting Service Providers and Management Tool Providers. Originally, these contracts included the provisions which restricted listing of Private Lodging Services on other Private Lodging Service Platforms.

Since before the JFTC initiated the investigation on this case, Airbnb has eased the abovementioned restriction. Since August 17, 2017 Airbnb has restricted listing of Private Lodging Services on other Private Lodging Service Platforms only in the case where Co-hosting Service Providers and Management Tool Providers list certain Private Lodging Services by using API^(Note 4).

(Note 4) Private Lodging Services using houses which have obtained a license under Inns and Hotels Act, houses which have obtained a recognition under National Strategic Special Zones Act, monthly-mansions, etc. have been exempted from the restriction.

4. Concern over the Influence of Restriction on Listing of Private Lodging Services on other Private Lodging Service Platforms on Competition

There were concerns that, in the case where an operator of Private Lodging Service Platform restricts its trading partners’ listing of Private Lodging Services on other Private Lodging Service Platforms by using API, such a conduct might restrict business activities of these trading partners, and then might result in exclusion of operators of other Private Lodging Service Platforms (See Appendix).

5. Measure Proposed by Airbnb

In the process of this investigation, Airbnb made a proposal to the JFTC to promptly

take measures to waive its rights to enforce the provisions regarding the restriction mentioned in 3 above.

6. Closing of this Case

The JFTC recognized that the measures proposed by Airbnb mentioned in 5 above would eliminate the suspected violation of the Antimonopoly Act and decided to close the investigation on this case after confirming that the measures have been actually taken.

[Reference] Viewpoints from the Antimonopoly Act

“Guidelines Concerning Distribution Systems and Business Practices”

(July 11, 1991 Secretariat, the JFTC) (Summary)

2. Restrictions on Dealings with Competitors, etc.

(1) Restriction on trading partners’ dealing with competitors and/or trading partners’ handling of competing products

- b. In the cases where any below-listed conduct done by an influential enterprise in a market has foreclosure effects, such conduct is illegal as unfair trade practices (Paragraph 2 (Other Refusal to Trade), 11 (Trading on Exclusive Terms) or 12 (Trading on Restrictive Terms) of the General Designation): the enterprise’s engaging in transactions with its trading partners on the condition that the trading partners should not deal with competitors of the enterprise or another enterprise having close relations with the enterprise (Note 6); the enterprise’s causing its trading partners to refuse to deal with competitors of the enterprise or another enterprise having close relations with the enterprise; or the enterprise’s engaging in transactions with its trading partners on the condition that the trading partners should limit their handling of products that compete with products of the enterprise or another enterprise having close relations with the enterprise (hereinafter referred to as “competing products”).

II. JFTC’s Initiatives against Suspected Violations of the Antimonopoly Act in the IT/Digital Sectors

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

Also, for the purpose of receiving the information regarding such a suspected violation, the JFTC has already set a special contact point (See the following website for details).

https://www.jftc.go.jp/houdou/pressrelease/h28/oct/161021_3.html

The JFTC continuously monitors the status of the competition in the IT/digital sectors from the perspective of promoting free and fair competition.