



Guidelines Concerning Abuse of a Superior Bargaining Position in Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc. (draft)

Background

The “Fundamental Principles for Rule Making to Address the Rise of Platform Businesses Formulated” (published on December 18, 2019) has proposed “the application of the rules about abuse of a superior bargaining position with respect to the relationship with consumers, who provide data related to themselves as a consideration for the services will be considered.”

Scope of the Guidelines

Conducts of a digital platform operator acquiring personal information, etc. from consumers

Concepts

1. Superior Bargaining Position

- A digital platform operator has a superior bargaining position over consumers who provide personal information, etc. when the consumers, even though suffering detrimental treatment from the digital platform operator, is compelled to accept this treatment in order to use the services provided by the digital platform operator.



Concepts

2. Types of abuses of a superior bargaining position

➤ Acquiring personal information, etc. without stating the purpose of use to consumers

(Assumed Example) Digital Platform Operator A in acquiring personal information, caused consumers to provide personal information without stating the purposes of use on its webpage or in any other ways.

➤ Acquiring or using personal information against consumers' intention beyond the scope necessary to achieve the purpose of use

(Assumed Example) Digital Platform Operator B provided the personal information acquired from consumers who use the services to third parties without obtaining the consent of consumers.

➤ Acquiring and using personal information without taking the precautions necessary and appropriate for safe management of personal information

(Assumed Example) Digital Platform Operator C caused consumers to use the services and to provide personal information without taking the precautions necessary and appropriate for safe management of personal information.

➤ Causing consumers in continuous use of services to provide economic interests like personal information, etc. in addition to the compensation provided in exchange for the use of services

(Assumed Example) Digital Platform Operator D caused consumers in continuous use of services to provide personal information, etc. in addition to the personal information, etc. provided in exchange for the use of services.

※ In addition to the above examples, other digital platform operators' conducts – related to acquiring or using personal information, etc. provided by consumers – which unjustifiably causes a disadvantage for consumers in light of normal business practices could be applicable.