

Release of the “Guidelines Concerning Abuse of a Superior Bargaining Position in Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.”

December 17, 2019

Japan Fair Trade Commission

1. The “Fundamental Principles for Rule Making to Address the Rise of Platform Businesses Formulated” (published on December 18, 2018) has proposed that “the operation of the Antimonopoly Act and related institutions to ensure fair and free competition in digital markets will be considered, such as [...] 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.” Based on this proposal, the JFTC has decided to publish the “Guidelines Concerning Abuse of a Superior Bargaining Position under the Antimonopoly Act on the Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.” (hereinafter, “Guidelines”) to ensure the transparency and the predictability for digital platform operators by clarifying the concepts of the regulation on abuse of a superior bargaining position about acquiring or using personal information, etc. between digital platform operators and consumers that provide it. The JFTC published the draft of the Guidelines on August 29, 2019, to request public comments from various interested parties, which was due on September 30, 2019.

2. In response to the call for comments, 141 comments* were submitted. After having carefully considered these comments, the JFTC partially amended the draft and published the Guidelines (see the attachment).

(*) Out of 141 comments, there were 21 comments irrelevant to the draft of the Guidelines.

3. The JFTC will adequately inform about the Guidelines, to help enterprises prevent from violating the Antimonopoly Act and will also continue to appropriately enforce the Antimonopoly Act. Also, the JFTC, as necessary, cooperates with the Personal Information Protection Commission to tackle abuse of a superior bargaining position regarding the transactions between digital platform operators and consumers that provide personal information, etc.