

Closing the Investigation on the Suspected Violation of the Antimonopoly Act by Rakuten Group, Inc.

December 6, 2021
Japan Fair Trade Commission

The Japan Fair Trade Commission (hereinafter referred to as the “JFTC”) filed a petition for an urgent injunction to the Tokyo District Court on February 28, 2020, in accordance with the provision of Article 70-4, paragraph (1) of the Antimonopoly Act. This urgent injunction was to temporarily stop Rakuten Group, Inc. (hereinafter referred to as “Rakuten”) from introducing, to all the merchants of Rakuten’s online retail platform “Rakuten Ichiba” uniformly, common free shipping threshold (hereinafter referred to as the “Threshold”) ^(notes 1).

On March 6, 2020, Rakuten announced that it would take the measures to allow the merchants to exempt themselves from the Threshold at their choice, and established a procedure for the merchants to apply for the exemption from the Threshold ^(note 2). Recognizing that an injunction would be less urgent for the time being if the merchants could choose whether or not they apply the Threshold voluntarily, the JFTC withdrew its petition for the urgent injunction on March 10, 2020. However, the JFTC had continued its investigation on Rakuten’s measures in order to find out if the merchants would be able to make a choice voluntarily regarding the application of the Threshold.

As a result of the investigation, the JFTC recognized the fact implying the suspicion^(notes 3) that Rakuten had set or changed the terms of the trade, or had conducted the trade to disadvantage the merchants which had opened stores on Rakuten Ichiba by July 2019 ^(notes 4) unjustly in light of normal business practices by making use of its superior bargaining position over them; specifically, by specific Rakuten employees ^(notes 5) suggesting, for instance, to the merchants that they would be put at a disadvantage if they would not apply the Threshold, Rakuten forced them to apply the Threshold and not to apply for the exemption.

During the JFTC’s investigation, Rakuten proposed to take voluntary measures ^(notes 6). As a result of the JFTC’s review on this proposal, the JFTC recognized that these measures would eliminate the abovementioned suspicion and decided to close the investigation on this case after the JFTC confirms the proposed measures has been taken.

(Note 1) This is the measure by which the merchants on Rakuten Ichiba would be required to display “free shipping” for orders of 3,980 yen and over (including tax; the same applies in the following) in principle.

(Note 2) This exemption is granted only for the merchants that had entered into a merchant contract with Rakuten by July 2019.

(Note 3) This conduct might fall under Article 2, paragraph (9), item (v) (c) (Abuse of Superior Bargaining Position) of the Antimonopoly Act and violate the provisions of Article 19 of the Act.

(Note 4) Rakuten has entered into store opening agreements only with the merchants that agree to apply the Threshold since August 1, 2019.

(Note 5) Rakuten employees who provide the merchants with advice, etc. concerning the store management on Rakuten Ichiba.

(Note 6) Rakuten proposed, for instance, full dissemination, to specific Rakuten employees, of the policy that (a) Rakuten would respect the will of the merchants concerning their application for the Threshold and leaving the Threshold, and would not engage in any activity that violates the Antimonopoly Act; (b) Rakuten would not take the actions disadvantaging the merchants outside the Threshold, and would not suggest such actions to the merchants; (c) Rakuten would not take the actions constraining the exemption application of the merchants forced to apply for the Threshold, and would not suggest such actions to the merchants. At the same time, Rakuten proposed letting the merchants know the policy.

*It should be noted that this announcement is a tentative translation.

Please refer to the original text written in Japanese for more details.