

# Market Study Report on News Content Distribution



**公正取引委員会**  
Japan Fair Trade Commission



## Contents

Chapter 1. Purpose of Study .....	1
1. Purpose of Study .....	1
2. Subjects of study .....	3
(1) News Content categories.....	3
(2) Businesses .....	3
3. Survey Method.....	4
(1) Questionnaire survey .....	4
(2) Voluntary interviews .....	10
(3) International cooperation .....	11
Chapter 2. Overview of News Content Distribution Market .....	12
1. Expansion of distribution channels mediated by News Platforms .....	12
(1) Changes in the media usage behavior of consumers .....	12
(2) Changes in the distribution structure and revenue structure regarding News Content.....	15
(3) Distribution of News Content on websites and apps.....	21
(4) Importance of News Platform-mediated distribution.....	32
(5) Summary .....	37
2. News Platform Operators.....	38
(1) Degree of use, market share .....	38
(2) Sales, etc., of major News Portal Operators .....	49
(3) Overview of services of major News Platform Operators.....	50
3. Use of News Content on News Platforms .....	56
(1) Use of News Content in News Portals .....	56
(2) Usage of news content (snippets, etc.) in Internet Searches .....	85
4. Consumer Choice of News Content.....	87
(1) News Portals.....	88
(2) Internet Searches.....	93
Chapter 3. Market Characteristics for News Content Distribution.....	97
1. Influence on News Content choice among consumers .....	97
(1) News Portals.....	98
(2) Internet Searches.....	100

2. Dual position held by Internet Search Operators .....	101
3. Regulations under the Copyright Act .....	102
Chapter 4. Assessment of Competitive Environment for the News Content Distribution Market .....	106
1. Bargaining position of News Platform Operators .....	106
(1) Superior bargaining position in the trade of News Content.....	106
(2) Positioning of market of services used when searching for News Content including Internet Searches.....	111
2. Fairness and transparency of agreements.....	111
(1) News Portals.....	111
(2) Internet Searches.....	113
Chapter 5. Views from The Antimonopoly Act and Competition Policy .....	115
1. Issues regarding News Portal .....	116
(1) Level of license fees and basis for its determination.....	116
(2) Changes in layout, etc., that may affect customer influx .....	126
(3) Selection criteria for News Content to be posted in the main news column .....	130
(4) Restrictions on distribution of News Content .....	135
(5) Disclosure of consumer access information.....	141
2. Issues regarding Internet Searches .....	143
(1) Payment for use of News Content .....	143
(2) Self-preferencing in Internet Search Results .....	147
(3) Opacity of search algorithms .....	149
3. Negotiation methods for transaction terms .....	151
(1) Remarks from News Media Operators.....	151
(2) Views from AMA.....	152
(3) Consultations with JFTC .....	156
Chapter 6. Future actions of the Japan Fair Trade Commission (JFTC) .....	158
Reference 1: Overseas developments in News Content distribution.....	160
Reference 2: Analysis of Self-Preferencing in Internet Search Results .....	164
<b>Glossary</b> .....	168

## Chapter 1. Purpose of the Study

### 1. Purpose of the study

In recent years, the way consumers read News Content has been changing with the increasing use of News Platforms such as News Portals that display news in one place on the Internet, while the use of existing news media such as newspapers and magazines has been declining. For example, the total percentage of respondents who selected news portals and news distribution through social media increased from 20.1% in 2013 to 65.7% in 2022, while the percentage of respondents who selected newspapers as their most used text-based news media decreased from 59.3% in 2013 to 18.0% in 2022.<sup>1</sup>

The appropriate provision of News Content to the public is essential for sound democracy, and is also important from the perspective of delivering information to consumers, as it contributes to ensuring a fair competitive environment through which consumers have a voluntary and rational choice of goods. In this regard, concerns have been raised that News Content distribution may be affected and it may become difficult for consumers to enjoy high-quality News Content, which plays a key role in people's lives, depending on the transactions between businesses operating News Platforms (News Platform Operator(s)) and businesses that edit and provide News Content based on their coverage (News Media Operator(s)), and the usage status of News Content on News Platforms. For example, News Media Operators have expressed concerns that, since consumers can view News Content on many News Platforms without paying any monetary compensation, the value that "news is free" is spreading and this is hitting their revenue from sales of News Content, and creates an inability for them to allocate sufficient funds for news coverage. In addition, from the perspective of a competitive environment, there are concerns that if News Platform Operators unfairly disadvantage News Media Operators who provide high quality News Content, the latter will be at a competitive

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<sup>1</sup> Ministry of Internal Affairs and Communications, Institute for Information and Communication Policy " Survey Report on Usage Time of Information and Communications Media and Information Behavior (FY2022)" (June 2023), p.74 ([https://www.soumu.go.jp/main\\_content/000887660.pdf](https://www.soumu.go.jp/main_content/000887660.pdf)) (hereinafter, the " Survey Report on Usage Time of Information and Communications Media and Information Behavior ", which the institute prepares every year ([https://www.soumu.go.jp/iicp/research/results/media\\_usage-time.html](https://www.soumu.go.jp/iicp/research/results/media_usage-time.html) ), will be referred to as the "Media Usage Survey Report").

disadvantage and this will make it difficult for them to provide high quality News Content. This may make it difficult for News Media Operators to provide high quality News Content.

Similar concerns about the deterioration of the environment in which consumers can enjoy high quality News Content which has been brought about by changes in the distribution structure of News Content have been pointed out in other countries as well<sup>2</sup>, and measures are being taken according to the circumstances of each country.<sup>3</sup>

The Japan Fair Trade Commission (“JFTC”) published its Final Report Regarding Digital Advertising (“Digital Advertising Report”) in February 2021. Among issues pertaining to transactions between News Media Operators and News Platform Operators, as well as other issues, the report argued that the clarification of trade terms and appropriate negotiations between these two types of parties are desirable from the perspective of competition policy in order to address issues regarding license fees for News Content usage on News Platforms and the display of rankings in Internet Search, which are major points for News Media Operators. However, according to interviews that the JFTC conducted prior to the commencement of this study and from August to November 2022 with business operators of newspapers, magazines and TV broadcasting, their relevant trade associations, and others in order to understand the status of the News Platform Operators’ efforts for addressing the issues pointed out by the JFTC in the report, no substantial improvement has been recognized.

In light of the above circumstances, the JFTC conducted a market study on the news content distribution services sector (“Market Study”), with the aim of making more effective proposals for solving problems after gaining a more detailed understanding of the actual status of transactions in the News Content distribution services market.

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<sup>2</sup> OECD, "Competition Issues in News Media and Digital Platforms, OECD Competition Committee Discussion Paper" (2021), p. 6 (<https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digital-platforms.htm>), Australia ACCC, "Digital Platforms Inquiry Final Report" (June 2019), p. 280 (<https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>), UK CMA and Ofcom, "Platforms and content providers, including news publishers: Advice to DCMS on the application of a code of conduct" (November 2021), p. 26 ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1073411/Platforms\\_publishers\\_advice.\\_A.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1073411/Platforms_publishers_advice._A.pdf)), etc.

<sup>3</sup> See "Reference 1: Overseas Developments in News Content Distribution" at the end of this report for movements in each country concerning News Content distribution.

## 2. Subjects of study

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This study covers the following categories and businesses of News Content.

### (1) News Content categories

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This study covers News Content that provides information and commentary considered useful to society and the economy, and that is distributed as text through websites and apps.

News Content consists of the article text, headlines, photos, etc., but any content that contains information as text, regardless of whether subject of transactions is all or part of the components, is subject to this study.

### (2) Businesses

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#### A. News media

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In this study, businesses that edit and provide News Content based on their own news coverage are referred to as "News Media Operator(s)."

#### B. News Platforms

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Common ways to view News Content on the Internet include: (i) news websites or news apps operated by News Media Operators ("News Media Site(s)"), (ii) news distribution associated with Internet portals, (iii) news distribution associated with social media (excluding user-generated sites<sup>4</sup>), and (iv) News Content curation services.<sup>5</sup> Regardless of the form of operation of these websites, in this study, services that display only parts of multiple News Contents (i.e.,

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<sup>4</sup> News Content may be available on News Portals and News Media Sites as well as on the websites/apps of user-posted services. This study focuses on transactions between News Platform Operators and News Media Operators, etc. However, the distribution format of the content of user-generated services in which individual contributors post News Content differ from that of other services in which News Content is posted by the operator of a website or app. Issues under the Antimonopoly Act and competition policy are often considered to be different in these cases.

<sup>5</sup> A service that aggregates multiple News Content from different sources and displays them in an organized manner.

headlines and parts of text and images of articles (collectively "Headlines-etc.)) from different providers side by side and distribute the full texts of those News Contents, or provide URL information of News Media Sites that carry the full texts of those News Contents are referred to as "News Portal(s)." Of the aforementioned services (i) through (iv), services (ii) through (iv) excluding (i) fall under News portals.

In addition to being viewed through the aforementioned News Portals etc., News Content may also be displayed and accessed through internet search services ("Internet Search(es)"), as the result of a search based on a query (keyword for search) entered by a user ("Internet Search Result"), and in the form of excerpts ("snippet(s)") of News Content.

In this study, News Portals used by consumers to browse News Content and Internet Searches used to search for News Content are collectively referred to as "News Platform(s)", and such News Platforms are the subject of this study. In this study, businesses that operate News Portals, Internet Searches, and News Platforms are respectively referred to as "News Portal Operator(s)", "Internet Search Operator(s)", and "News Platform Operator(s)".

### 3. Survey method

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This study was conducted starting from November 2022 using the following methods.

#### (1) Questionnaire survey

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##### A. Questionnaire survey for News Media Operators

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A questionnaire survey for News Media Operators ("News Media Survey") was conducted for the purpose of understanding the actual status of the industry of News Media Operators and the challenges they face. A summary of the News Media Survey is as follows (see Appendix 1 for further details on the results of the survey).

Subjects: 110 newspapers, news agencies, etc., which are member businesses of the Japan Newspaper Publishers & Editors Association.

80 publishers who are members of the Japan Magazine Publishers Association

148 broadcasters, etc., that are members of the Japan  
Commercial Broadcasters Association  
(319 in total<sup>6</sup>)

Survey method: Web-based survey

Period: From November 16, 2022 to December 7, 2022

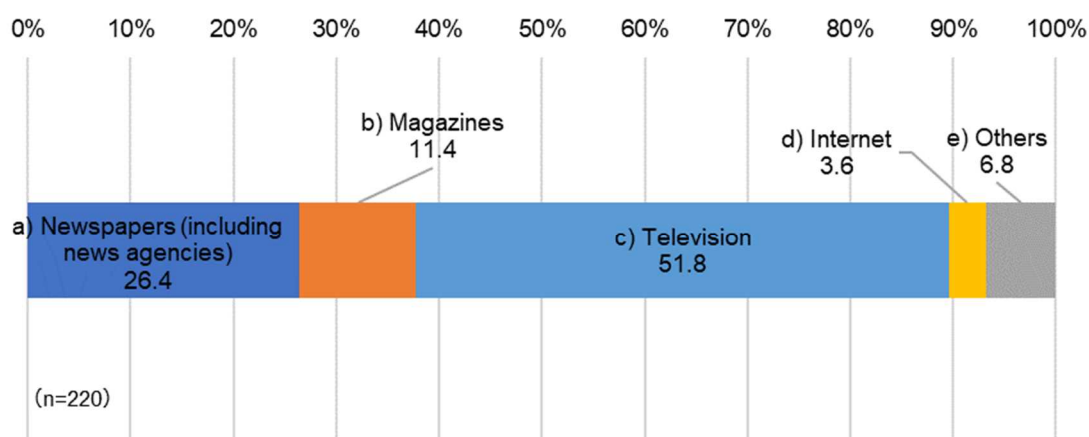
Number of respondents: 220

Response rate: 69.0%

The percentage of respondents to the News Media Survey by industry (news publishing/broadcasting media with the highest revenue in each respondent) is shown in Figure 1-1.

The number of employees, capital, and total sales (including sales other than News Content) of the respondents are respectively shown in Figures 1-2 through 1-4.

Figure 1-1 Industry



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<sup>6</sup> The number is less than the sum of the number of eligible businesses in each organization because some businesses are duplicate members of more than one organization.



Figure 1-2 Number of employees

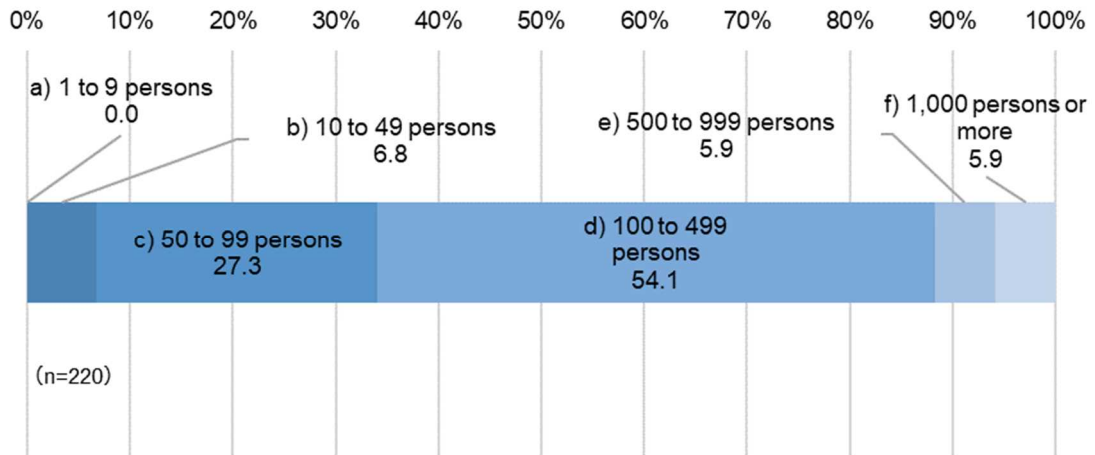


Figure 1-3 Capital

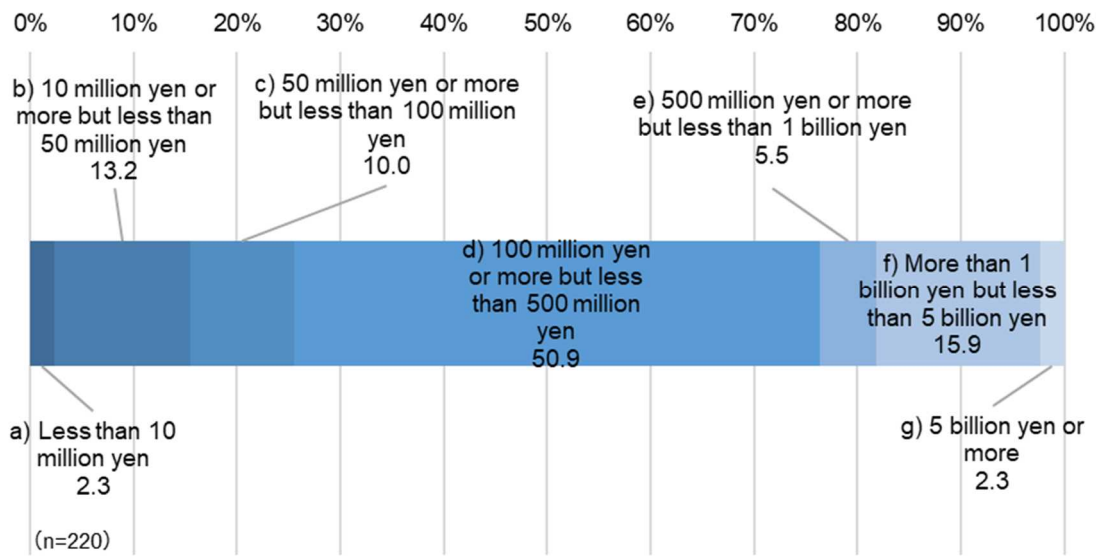
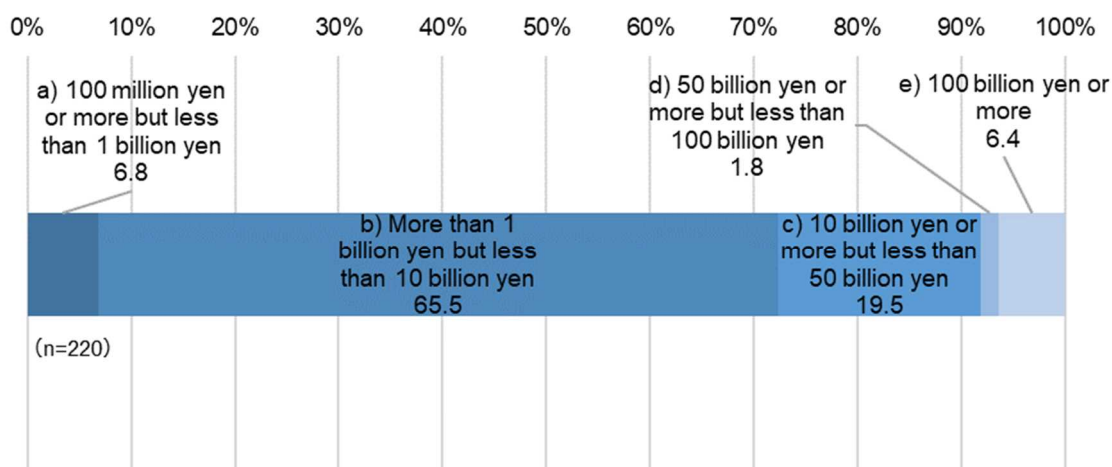


Figure 1-4 Total sales



## B. Questionnaire survey for consumers

A questionnaire survey for consumers (Consumer Survey) was conducted for the purpose of understanding the actual status of News Content browsing by consumers on the Internet. A summary of the Consumer Survey is as follows (see Appendix 2 for further details on the results of the survey).

Subjects: Consumers who look for News Content via mobile phones (including smartphones), tablet devices, or a PC 3 days or more per week.

Survey method: Web-based survey (conducted by a contractor)

Period: From February 17, 2023 to February 20, 2023

Number of respondents: 2,000

The age and gender composition of the Consumer Survey respondents are respectively shown in Figures 1-5 and 1-6.

Figure 1-5 Age composition

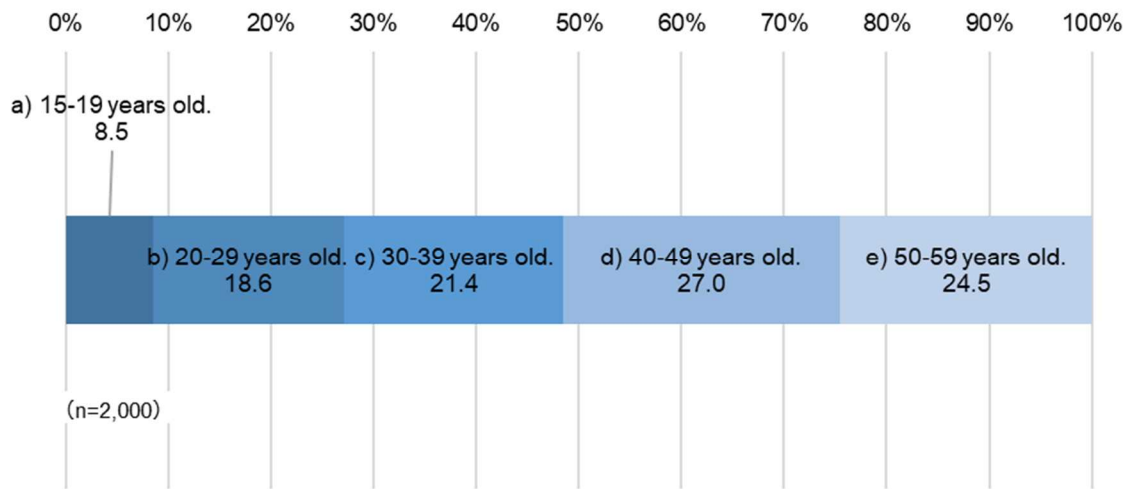
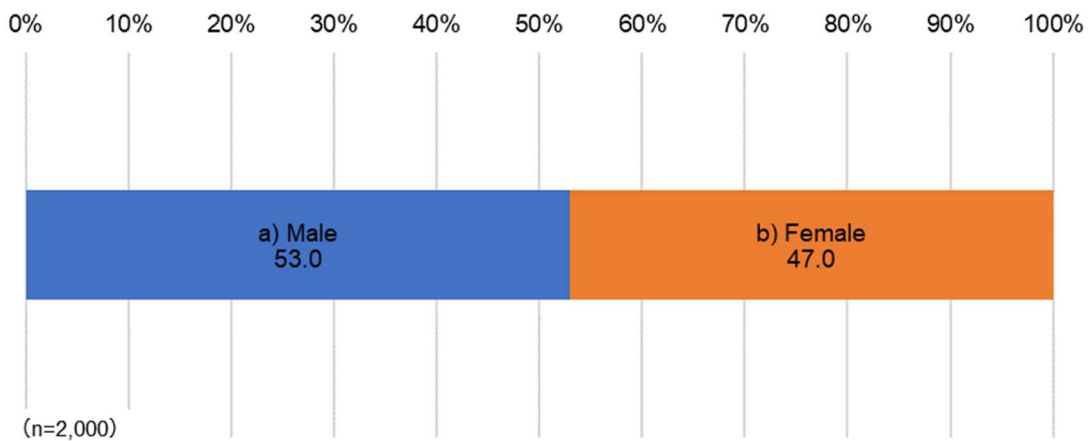


Figure 1-6 Gender composition



When survey respondents first started viewing News Content in an electronic format, the primary device they use to view it, and the software they use to view it are respectively shown in Figures 1-7 through 1-9.

Figure 1-7 When respondent first started viewing News Content in an electronic format

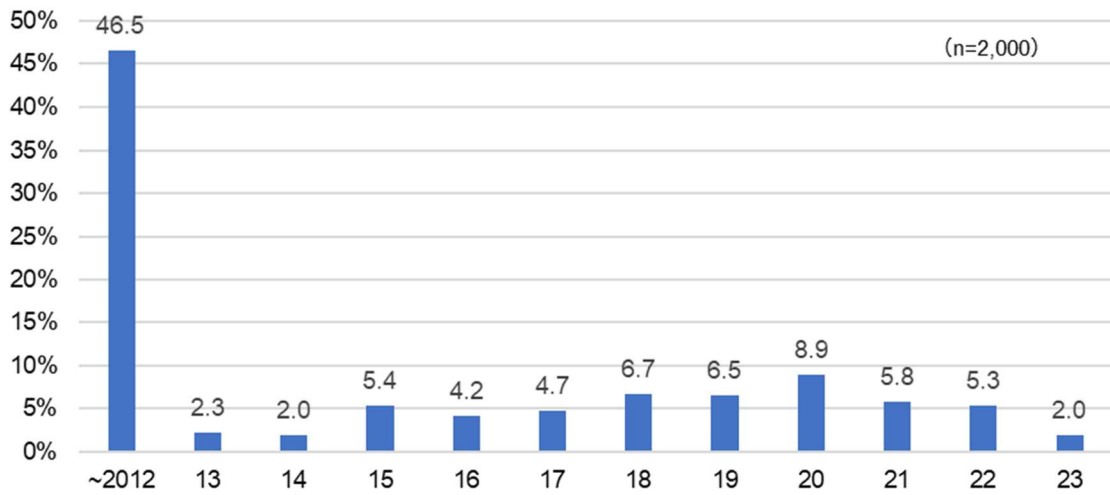


Figure 1-8 Devices mainly used to view News Content

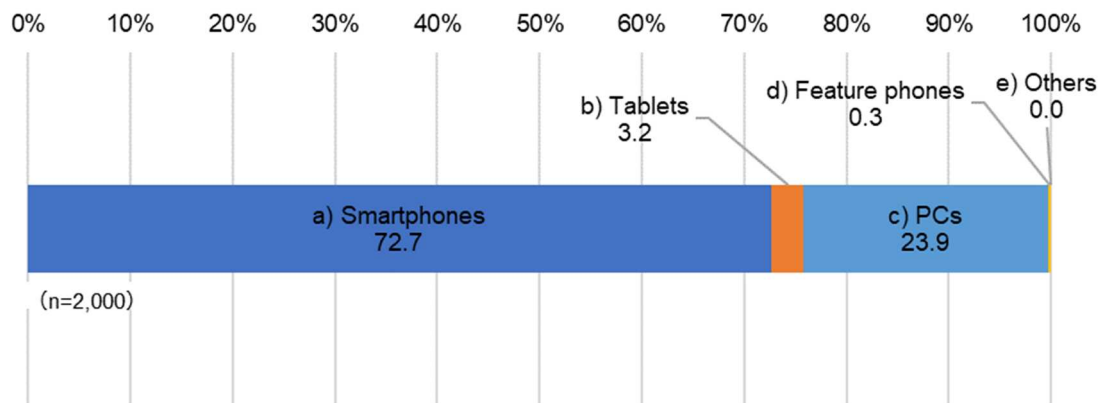
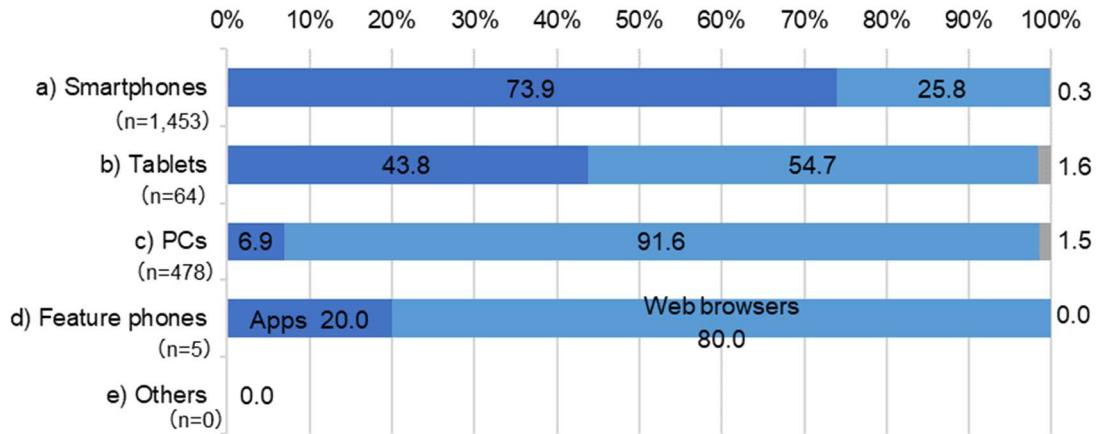


Figure 1-9 Software mainly used to view News Content



## (2) Voluntary interviews

Interviews were conducted with 53 News Media Operators and relevant trade associations, 7 News Platform Operators, and 5 experts in law, economics, and other fields. <sup>7</sup>

In addition, based on the News Media Survey (see (1) A above) and the Consumer Survey (see (1) B above), we requested written information from the following seven News Platform Operators, which News Media Operators are considered to have a high degree of transactions (degree of dependence) with, and consumers are considered to use frequently. ("News Platforms RFI". News Platform Operators' responses to the News Platforms RFI shall be referred to as "News Platforms Responses").

<sup>7</sup> Includes those conducted prior to November 2022, when this study was initiated.

Name of News Portal Operator	Operated News Portal
Yahoo Japan Corporation and its subsidiaries (hereinafter referred to as "Yahoo")	Yahoo! News
Google Japan G.K. and its affiliates (hereinafter referred to as "Google")	Google News
	Google News Showcase
	Discover
Microsoft Ireland Operations Limited (hereinafter referred to as Microsoft)	Microsoft Start (MSN Japan, Edge DHP/NTP, Bing News Carousel, Windows Flyout, etc.)
LINE Corporation and its subsidiaries (hereinafter referred to as "Yahoo")	LINE NEWS
SmartNews, Inc. and its affiliates (hereinafter referred to as "SmartNews")	SmartNews
Gunosy Inc. and its affiliates (hereinafter referred to as "Gunosy")	Gunosy
	News Pass
	au service Today
NTT DOCOMO, INC. and its affiliates (hereinafter referred to as "Docomo")	dmenu News

In order to obtain reference values to supplement the News Media Survey, we requested written information from each of the 10 News Media Operators (20 companies in total) that had the highest or middle-ranking trade amounts with News Platform Operators among the respondents to the survey ("News Media RFI". News Media Operators' responses to the News Media RFI shall be referred to as "News Media Responses").

### (3) International cooperation

In the process of compiling this report, we exchanged opinions with the U.S. Federal Trade Commission, the Australian Competition and Consumer Commission, and the French L' Autorité de la concurrence (competition authority).

## Chapter 2. Overview of News Content Distribution Market

In order to understand the current status of the News Content distribution market, we first reviewed the current usage of News Content by consumers and the business environment of News Media Operators, taking into account changes in the distribution structure of News Content, and overviewed the distribution of News Content via the Internet using electronic data (see below 1). Then, we confirmed the degree of use, market share, and business activities of News Platform Operators (see 2 below), and examine transactions between News Platform Operators and News Media Operators, including licensing fees, as well as the current status of News Content use on News Platforms (see 3 below) and the impact of the service mode of News Platforms on the selection of News Content by consumers (see 4 below).

### 1. Expansion of distribution channels mediated by News Platforms

In recent years, the media used by consumers to view News Content has shifted from traditional media such as print and broadcast to electronic data via the Internet. In parallel with these changes in consumer behavior, the distribution structures of News Content have also shifted from traditional media to electronic data via the Internet, and distribution channels mediated by News Platforms are expanding.

#### (1) Changes in the media usage behavior of consumers

In recent years, the development of communication technologies such as the Internet and the rapid spread of information-accessible devices, such as smartphones, have changed trends in media use among consumers. The use of online electronic data is increasing compared to the use of traditional news media such as newspapers, magazines, and television.

Figure 2-1-1 shows the annual change in the percentage of consumers using each news media.<sup>8</sup> Since FY2012, the percentage of consumers

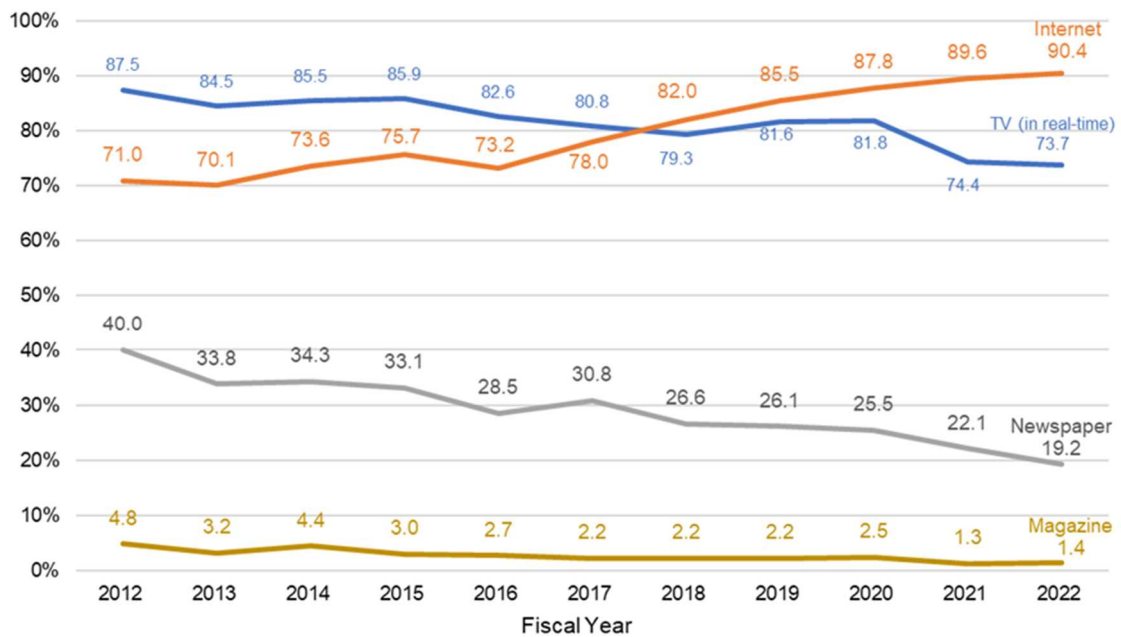
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<sup>8</sup> Prepared by the JFTC based on the FY2022 Media Usage Survey Report, p. 7. For magazines, see "Diary-type Survey Results" for FY 2012 through 2022 in Media Usage Survey Report conducted by the Ministry of Internal Affairs and Communications.

Excerpted from ([https://www.soumu.go.jp/iicp/research/results/media\\_usage-time.html](https://www.soumu.go.jp/iicp/research/results/media_usage-time.html)).

using the Internet on weekdays has increased<sup>9</sup> from 71.0% in FY2012 to 90.4% in FY2022. On the other hand, looking at changes in the percentage of traditional media use over the same period, there was an across-the-board decline with TV going down from 87.5% to 73.7%, newspapers from 40.0% to 19.2%, and magazines from 4.8% to 1.4%.<sup>10</sup>

Figure 2-1-1 Percentage of each news media used (weekdays)



In terms of the perception of consumers regarding the importance of the Internet as a means for obtaining information, the importance of traditional news media such as newspapers, magazines, and television has been decreasing, while the importance of the Internet has been increasing (see Figure 2-1-2<sup>11</sup>).

<sup>9</sup> According to pages 1 and 2 of the FY 2022 Media Usage Survey Report, 1,500 randomly selected men and women between the ages of 13 and 69 years old were surveyed by filling out a questionnaire on two consecutive weekdays and one day off, and the "use rate" (described as the "actor rate" in the report) was calculated as the ratio of those who engaged in a certain information behavior (used a certain media). The figures for weekdays are the average of the subject two days.

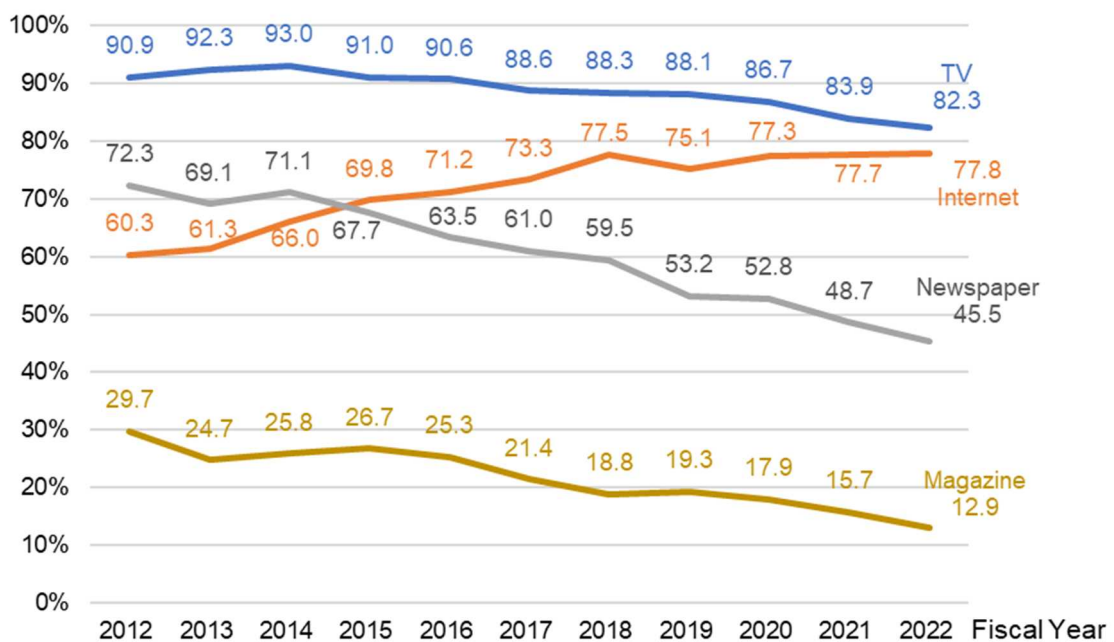
<sup>10</sup> This trend in consumer behavior regarding media use is generally the same when looking at holidays.

<sup>11</sup> The percentages of respondents who answered "very important" and "somewhat important" as a means of obtaining information on each news media outlet were compiled by the JFTC based on the Media Usage Survey Report FY2022, p. 86, the same for FY2021, p. 86, the same for FY2019, p. 97, the same for



This shift in consumer perceptions is also consistent with changes in the frequency of use of text-based news media. Looking at the services most used by consumers for this media type, Figure 2-1-3<sup>12</sup> shows that, the percentage of users of Internet-based services such as "news distribution through portal sites," "news distribution through social media" and "curation services"<sup>13</sup> have all increased, while the percentage of users of "print newspapers" has decreased significantly.

Figure 2-1-2 Importance of each news media as a source of information

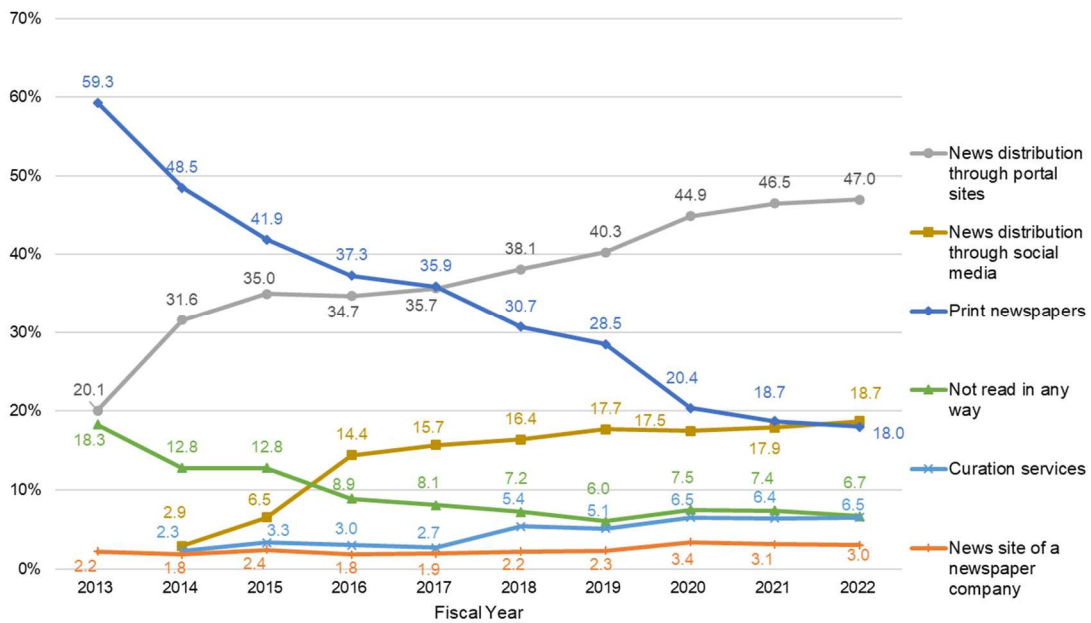


FY2017, p. 87, the same for FY2015, p. 73, the same for FY2013, p. 87, and the same for FY2012, p. 79.

<sup>12</sup> Prepared by the JFTC based on the Media Usage Survey Report for FY2022, p. 73 and the same for FY2021, p. 74. "News sites of newspaper publishers" is a combination of "paid news websites of newspaper publishers" and "free news websites of newspaper publishers".

<sup>13</sup> "Yahoo! News, Google News", etc., for news distribution via portal sites, "LINE NEWS, etc." for news distribution via social media, and "SmartNews, Gunosy, etc." for curation services, as specific examples of services in the Media Usage Survey Report for FY2022, p. 73, and any of these forms of news distribution fall under the category of News Portal in this study.

Figure 2-1-3: Most used services among text-based news media



## (2) Changes in the distribution structure and revenue structure regarding News Content

In parallel with changes in consumer behavior as described in (1) above, the structure of News Content distribution is shifting from traditional media to online electronic data. The following is an overview of the changes in the distribution structure and revenue structure for News Content, with a focus on newspapers, magazines, and television.

### A. Changes in distribution structure

Looking at the scale of distribution and use of News Content via newspapers, magazines, television, and the Internet, as detailed below, distribution and use via the Internet has increased, while the distribution and use of newspapers and magazines has decreased. This suggests that online electronic data is increasing in its share of News Content distribution, while newspapers and magazines are decreasing.

Looking at the circulation of newspapers and magazines in the last 10 years, they have been decreasing every year. As shown in Figure 2-1-

4<sup>[14]</sup>, the circulation of newspapers decreased from approximately 47.78 million in 2012 to approximately 30.85 million in 2022 (64.6% of the 2012 level). As shown in Figure 2-1-5<sup>[15]</sup>, the circulation of magazines decreased from approximately 2,907.01 million in 2012 to approximately 1,313.66 million in 2022 (44.8% of the 2012 level). As shown in Figure 2-1-6<sup>[16]</sup>, the average viewing time of TV on weekdays and holidays is on a declining trend over the period 2012<sup>[17]</sup> to 2022, although there are increases and decreases in each year.

Looking at the distribution of online News Content, according to the News Platforms Responses, although the period during which the information was available was limited, the page view number ("PV") of web pages<sup>[18]</sup> containing full-text News Content on News Portals increased from approximately 189,347.78 million PV in FY 2019 to approximately 236,510.57 million PV in FY 2021 (124.9% of the FY 2019 level).<sup>[19]</sup> In addition, where News Media Operators may operate multiple websites depending on the News Content, News Content license agreements between News Portal Operator and News Media Operator ("News Content License Agreement(s)") are generally concluded<sup>[20]</sup> on a website-by-website basis. According to the News Platforms Responses, the number of News Content License Agreements<sup>[21]</sup> that News Portal Operators have with News Media Operators has increased significantly from 1,465 in FY 2016 to 2,944 in FY 2021 (201.0%

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<sup>14</sup> Prepared by the JFTC based on "Newspaper Circulation and Households" survey data from the Japan Newspaper Publishers and Editors Association.

(<https://www.pressnet.or.jp/data/circulation/circulation01.php>)

<sup>15</sup> Prepared by the JFTC based on "Publishing Index Annual Report 2023", 2023, p. 7, National Publishers Association PIIA, Publishing Science Research Institute.

<sup>16</sup> Prepared by the JFTC based on the Media Usage Survey Report for FY2022, p. 6 and the same for FY2021, p. 6.

<sup>17</sup> For holidays, on and after 2013, when the survey began.

<sup>18</sup> Refers to the individual information pages that make up a website.

<sup>19</sup> Based on the information provided by six companies which provide full-text news content in the News Portal of the seven companies that we requested information from, we calculated the total number of PVs of the web pages subject to the payment of News Content license fees to News Media Operators.

<sup>20</sup> The type of News Content License Agreement varies between News Platform Operators. In addition, News Content License Agreements generally impose a nondisclosure agreement on the contracting parties.

<sup>21</sup> The total number of News Content License Agreements with News Media Operators was calculated based on the information provided by five of the seven companies that information was requested from, which had already started as of FY2016 and were operating as of FY2021 News Portal business.

compared to the FY 2016 level). These indicate that the distribution of News Content via the Internet has increased significantly in recent years.

Figure 2-1-4 Newspaper circulation

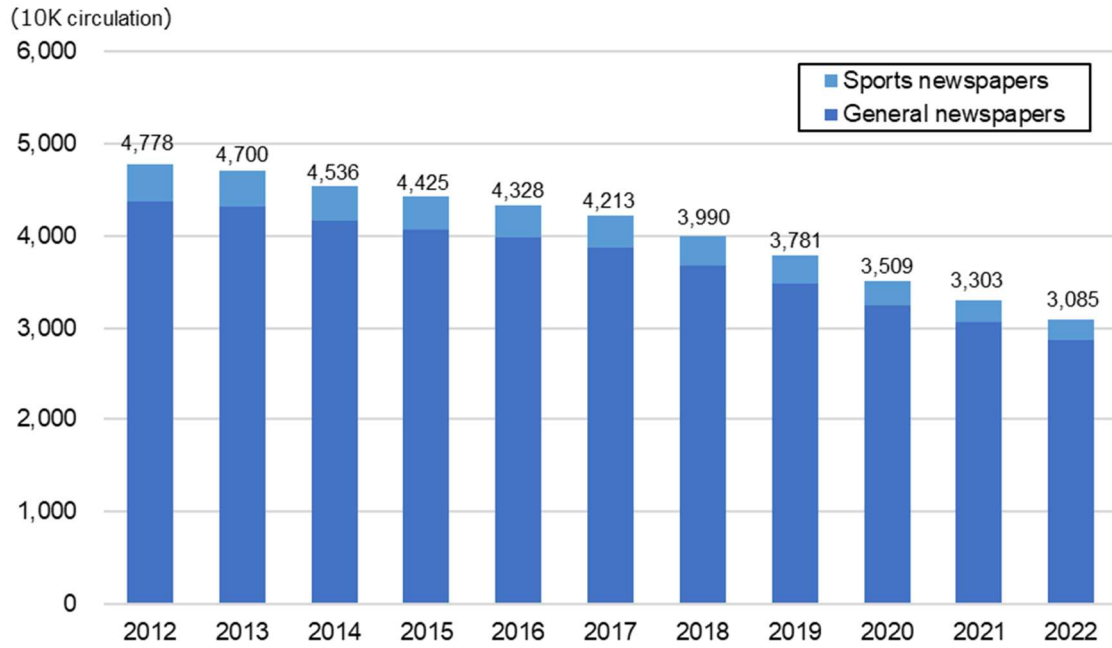


Figure 2-1-5 Magazine circulation

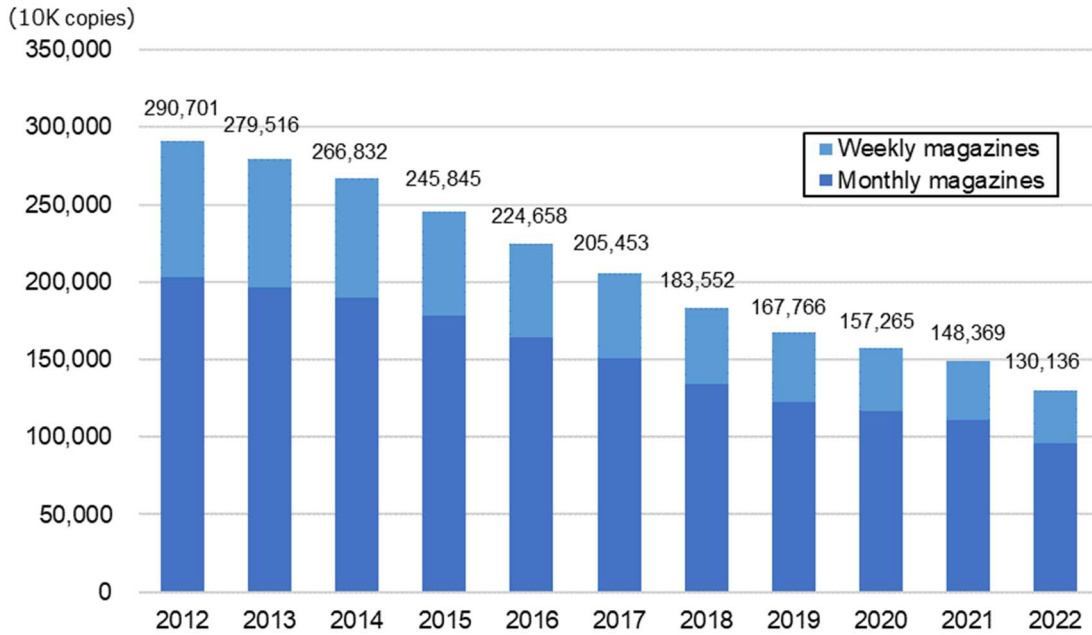
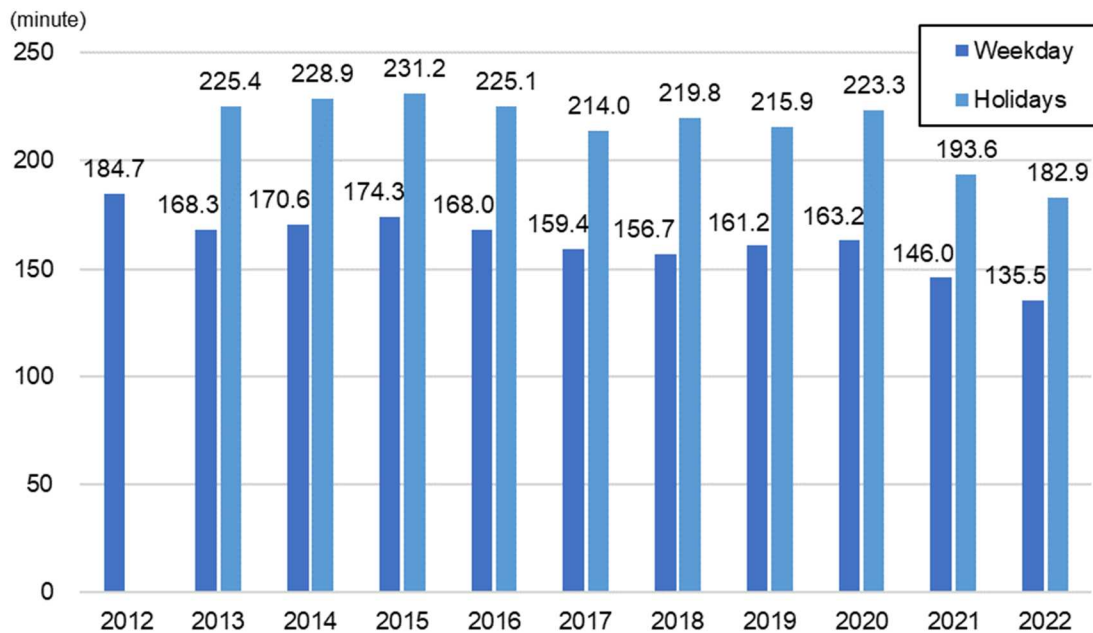


Figure 2-1-6 Average TV (real-time) viewing time



**B. Changes in revenue structure**

In the business activities of News Media Operators, sales from advertisements that are posted or displayed along with News Content are one of the major pillars of their business revenues. Looking at trends

in income from newspapers, magazines, and television, as shown in Figures 2-1-7 through 2-1-9<sup>22</sup>, for newspapers and magazines, sales incomes and advertising incomes under existing media have declined significantly over the past decade. On the other hand, given that TV advertising incomes have not declined significantly, it can be said that the impact of changes in the distribution structure associated with the digitalization of society on their business activities has been particularly pronounced for newspapers and magazines in comparison to TV related businesses.

In addition, according to the News Media Survey, 94.5% of News Media Operators distribute News Content on the Internet or license News Content to News Portals<sup>23</sup>. This indicates that the importance of digital advertising is growing in the face of declining sales and advertising incomes from existing media. While digital advertising incomes have consistently increased in recent years, they are yet to offset the decline in existing sales and advertising incomes for both newspapers and magazines.

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<sup>22</sup> The JFTC prepared these figures based on the following data, for newspaper sales incomes the Japan Newspaper Publishers & Editors Association survey data, "Trends in Total Sales of Newspapers" (<https://www.pressnet.or.jp/data/finance/finance01.php>); for magazine sales incomes, National Publishers Association PIIA, Publishing Science Research Institute "Publication Index Annual Report 2023" (2023), p. 3; for advertising income and digital advertising income for each media "2019 Advertising Expenditures in Japan" (March 2020) (<https://www.dentsu.co.jp/news/release/2020/0311-010027.html>); and "2022 Advertising Expenditures in Japan" (March 2020) (February 2023) (<https://www.dentsu.co.jp/news/release/2023/0224-010586.html>) (Dentsu Inc.).

<sup>23</sup> In the News Media Survey, 208 News Media Operators out of 220 total respondents indicated that they distribute News Content on their News Media Site or license News Content to News Portals.

Figure 2-1-7 Newspaper-related incomes

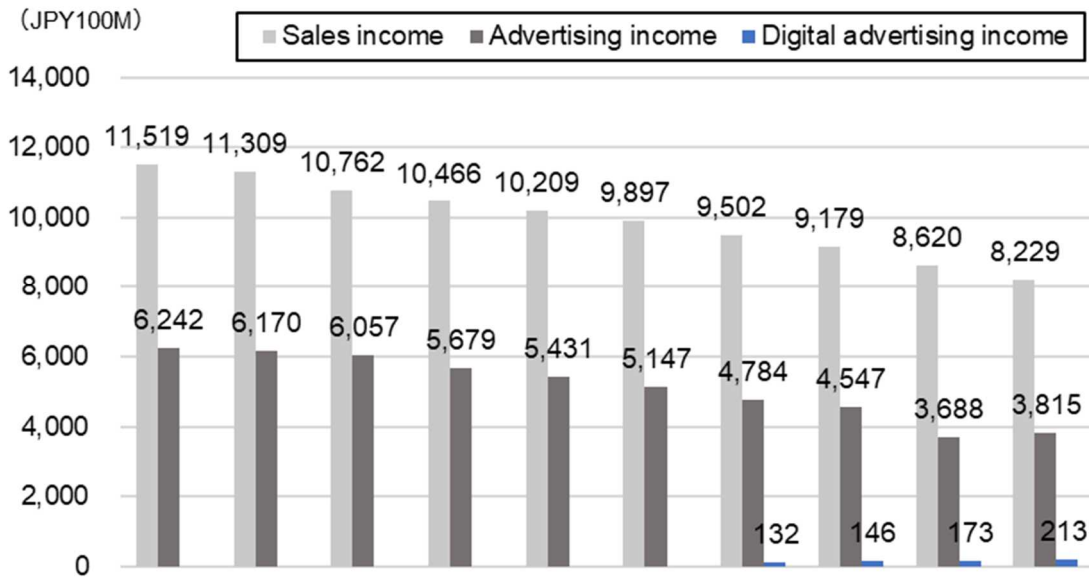


Figure 2-1-8 Magazine-related incomes

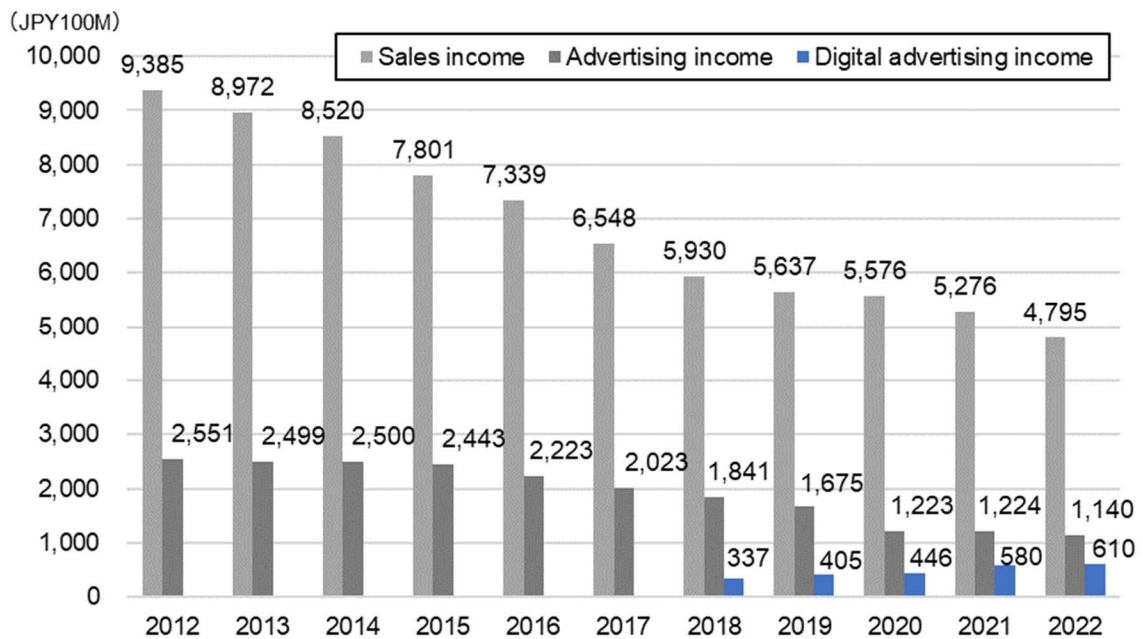
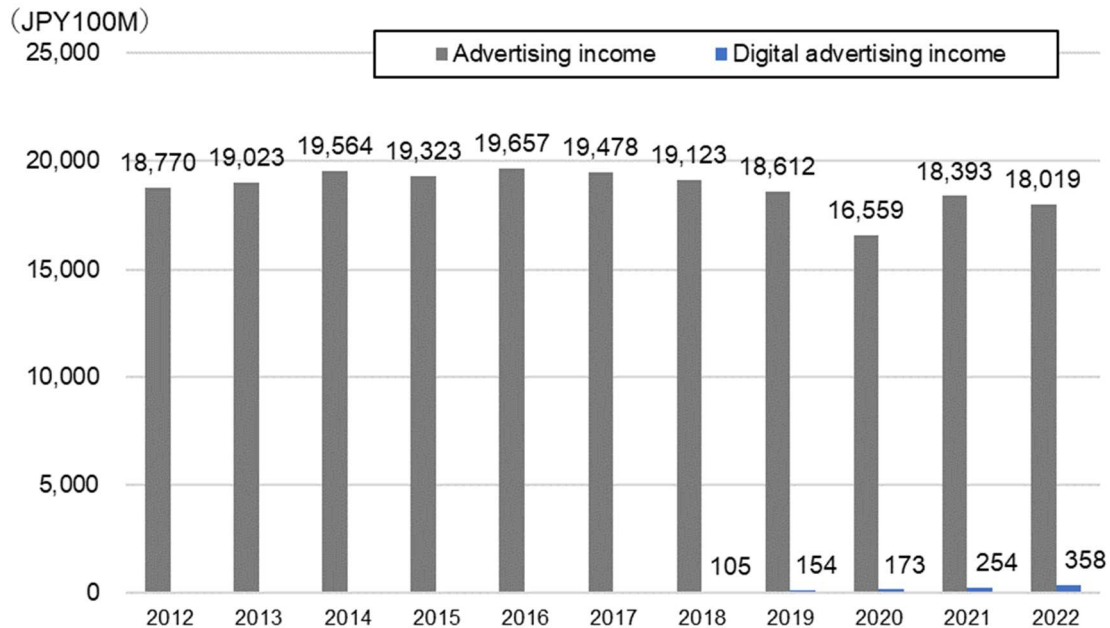


Figure 2-1-9 Television-related incomes



### (3) Distribution of News Content on websites and apps

With respect to the distribution of News Content on websites and apps via the Internet, consumers may directly access the website or app of a distributor, such as a News Portal Operator or a News Media Operator to view News Content, and there are cases in which consumers access a website and then use the URL of another website listed on that website (hereinafter, URL of other web pages posted on a web page is referred to as "link(s)") to access the website of another distributor to view News Content. Among News Platforms, News Portals have both of the aspects of being distributors of News Content and providers of a means of accessing such content, while an Internet Search only has the latter aspect.

In the following, we organize the distribution channels for News Content from the perspective of both the distributor and the provider of the means of access, then discuss the specific modes of each distribution channel and the compensation relationships that arise therefrom.

#### A. Overview of News Content distribution

##### (A) Distributors of News Content to consumers.

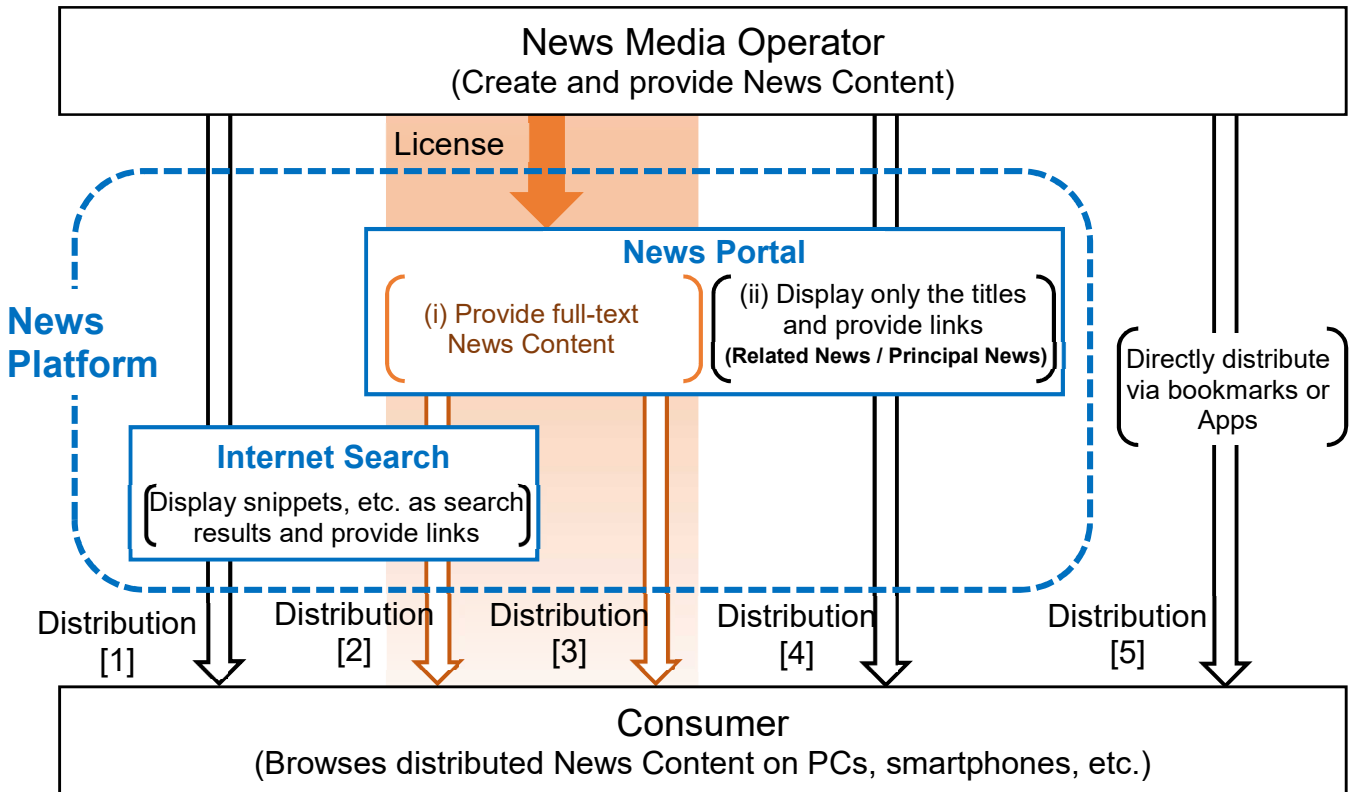
Figure 2-1-10 provides an overview of the distribution of News Content covered in this study, and Figure 2-1-11 shows the browsing



behavior of consumers who come into contact with each distribution. News Content viewed by consumers on PCs, smartphones, etc., includes content distributed by News Media Operators themselves, i.e., distributed on News Media Sites (Distribution [1], [4], and [5] in Figure 2-1-10), as well as distributed by News Portal Operators on News Portals under a license from a News Media Operator (Distribution [2] and [3] in Figure 2-1-10).

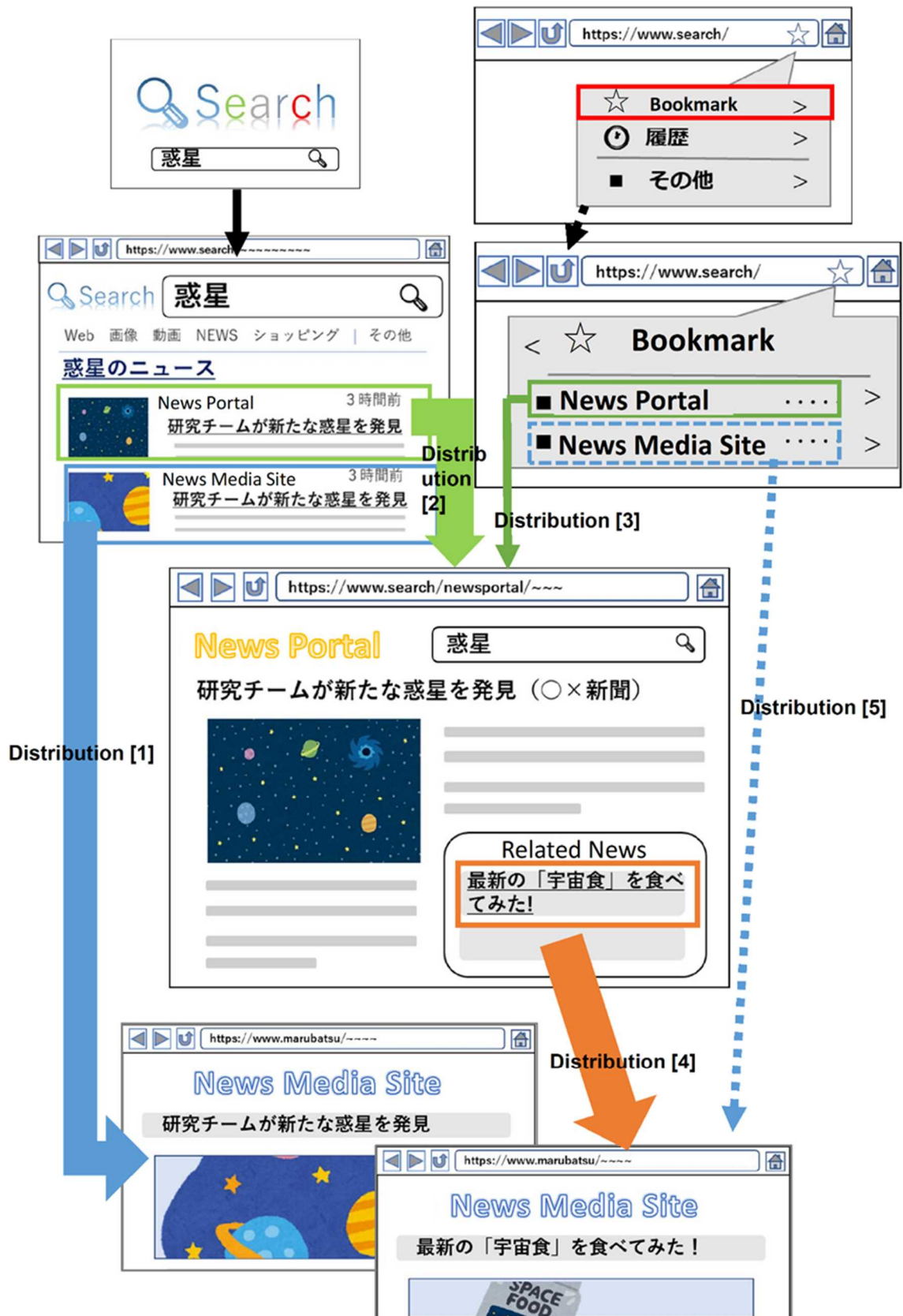
News Media Operators license News Portal Operators to distribute News Content while they themselves distribute such content to consumers, so that News Portal and News Media Site are in a state where the same News Content is being distributed. Thus, News Media Operators are suppliers of News Content to News Portal Operators while being in a competitive relationship with those News Portal Operators as distributors to consumers with respect to content Distribution [2] and [3].

Figure 2-1-10: Overview of News Content distribution



- \* 1 The figure shows only "News Media Operator" as the originator of the link "Principal News" for News Portal in "Distribution [4]", but other News Portals that provide full-text News Content may also be the originator.
- \* 2 In some cases, a license may have been granted for the News Portal in (ii).

Figure 2-1-11 Consumer browsing behavior



## (B) Providers of access to News Content for consumers

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Consumers may view News Content either by directly accessing a website or application that provides the full text of the News Content (Distribution [3] and [5] in Figure 2-1-10), or by accessing another website that provides the full text of the News Content via links provided in News Portals or Internet Search Results (Distribution [1], [2] and [4] in Figure 2-1-10).

In the case of the latter (Distribution [1], [2] and [4] in Figure 2-1-10), the Internet Search in Distribution [1] and [2] and the News Portal providing the links in Distribution [4] merely provide consumers with a means to access the full text of the relevant News Content, and the distributor of this content is the operator who provides the full text on the linked website (i.e., the operator of the website that carries the full text of the News Content). <sup>24</sup>

## B. Specific aspect of delivery and consideration relationship

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In the distribution of News Content, the presence and type of intermediate News Platforms depends on the distribution pathway, as shown in Figure 2-1-10 above.

In the following, we focus on intermediate News Platforms and discuss the specific aspects of Distribution [1] through [5] and the compensation relationships that arise in each distribution pathway.

### (A) News Portal-mediated distribution

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#### a. Specific aspect of delivery

Distribution intermediated by News Portal includes: (i) where the full text of News Content is displayed on the News Portal (Distribution [2] and [3] in Figure 2-1-10), and (ii) where only the headline of the News Content is displayed on the News Portal and a link is provided to News Media Sites that provide the full text of the actual News Content, thereby causing a consumer who selects (clicks or taps) the headline to be transferred to the relevant News Media Site (hereafter, transferring a consumer to another website

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<sup>24</sup> If both Internet Search and News Portal are operated by the same News Platform Operator, the operator providing the means of access to the full text of the News Content and the operator providing the full text of the News Content will be the same in the Distribution [2].

by a link attached to a headline or snippet is referred to as a "customer influx") (Distribution [4] in Figure 2-1-10). In (ii), consumers view the full text of News Content via the News Media Site.

Of these, specific examples of Distribution [3] and [4] are shown below (Distribution [2] is discussed in conjunction with the explanation of Distribution [1] in below (B), since an Internet Search is also involved in the distribution route).

In Distribution [3], a News Portal Operator receives a license from a News Media Operator to distribute (use) News Content, which it distributes to consumers via a News Portal. In this case, the News Portal displays side by side multiple News Contents licensed by each News Media Operator. The News Portal mainly consists of a Top Page with only headlines and a reduced version images (thumbnail) of the News Content (Figure 2-1-12) and a Detail Page with the full text of the News Content (Figure 2-1-14). In addition to these pages, there may be an Intermediate Page that contains a part of the main body of the News Content and/or commentary, etc. (see Figure 2-1-13). Many News Portals display the headlines of some News Contents selected by News Portal Operators at the top of the Top Page under titles such as "Main News" or "Topics" where consumers can easily view them ("Main News Column"). In Distribution [3], when a consumer accesses the Top Page of a News Portal's website or app, and selects something of interest from the headlines and thumbnails lined up there, the Details Page is displayed (if there is an Intermediate Page, the Top Page, Intermediate Page, and Details Page are displayed in this order.).

Figure 2-1-12: Example of Top Page in a News Portal



Figure 2-1-13: Example of Intermediate Page in a News Portal

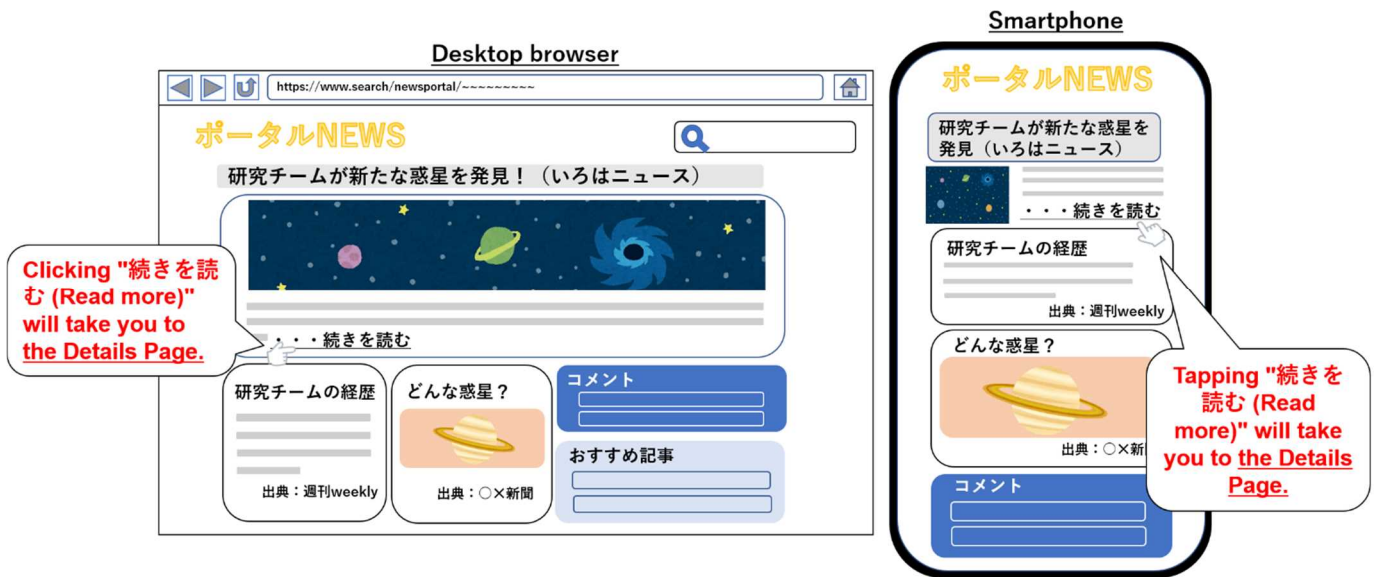
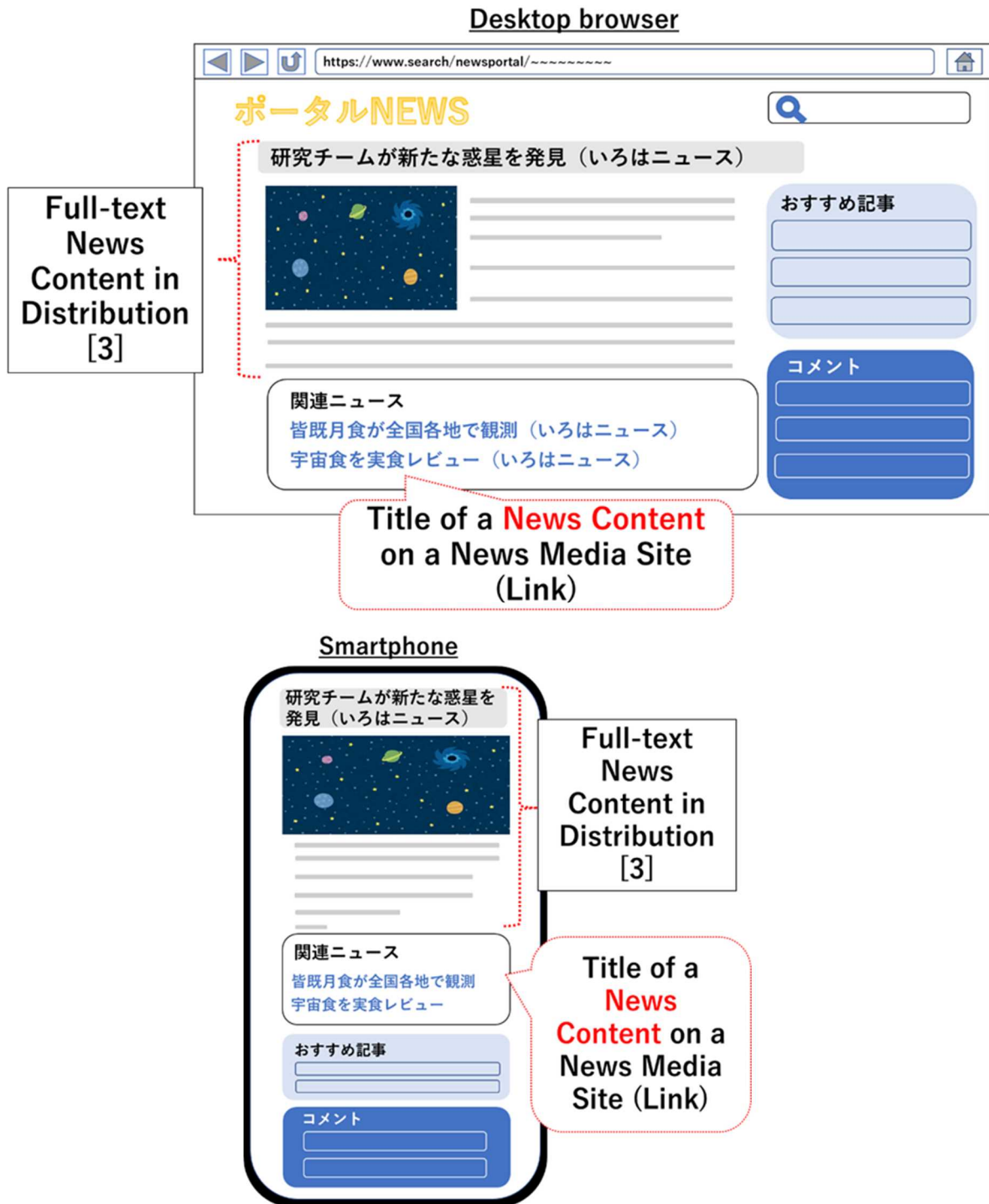


Figure 2-1-14 Example of Details Page in a News Portal



Distribution [4] displays only the headlines of News Content on the News Portal, and sends consumers who select a headline to a News Media Site or other News Portal by means of links attached to the headlines. There are two major types of display patterns for

News Content headlines pertaining to Distribution [4].

One is to display the headlines of News Content from different distributors side by side as the principal contents of the News Portal ("Principal News Format Display"), similar to the example of the Top Page in Figure 2-1-12.

The other is to display the full text of the News Content and headlines of related News Content ("Related News") on the Details Page of the News Portal, and to provide a link to the full text of the related News Content on the News Media Site ("Related News Links". The display of the headline on the News Portal with the Related News Link is referred to as the "Related News Format Display".<sup>25</sup> See "Related News" in Figure 2-1-14 for an example of the display. The Related News Format Display is positioned as additional information related to the News Content licensed for Distribution [2] and [3], and the number of Related News Format Display is determined between News Portal Operator and News Media Operator.

In both the Principal News Format Display and Related News Format Display, the viewing of the full text of News Content by the consumer takes place at the News Media Site or another News Portal that is the destination of the links. On the other hand, the entities that select the headlines of the News Content to be posted are different in both types of displays. In the Related News Format Display, News Media Operator usually selects the headlines of the News Content to be posted, and News Portal Operator is not involved in the selection process. For the Principal News Format Display, the News Portal Operator selects the News Content to be posted via an algorithm, and the News Media Operator is not involved, except for some services.

#### b. Compensation

In the case of Distribution [2] and [3] in Figure 2-1-10 (where full-

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<sup>25</sup> In the Related News Format Display, in addition to headlines of other News Content related to the Principal News Content, a string such as "Read at the original site" may be displayed with links to a page on the News Media Site that displays the full text of the Principal News Content. However, it is not likely that many consumers will select such a link, as they are not likely to have a high need to view the same News Content overlaid on the Principal News Content that is displayed with full text on the News Portal.



text News Content is provided via a News Portal), monetary compensation (a license fee) is often paid by the News Portal Operator to the News Media Operator for a license to utilize News Content. On the other hand, consumers basically use News Portals for free, and the operators of these earn revenue from digital advertisements that are displayed along with News Content when consumers visit the websites or apps operated by a News Portal Operator. <sup>26</sup>

In the case of Distribution [4] (where the News Portal displays only the title of News Content and provides a link to a News Media Site), in most cases, the News Portal Operator does not pay any monetary compensation (license fee) to the News Media Operator. However, Distribution [4] has the function of transferring consumers to News Media Site (i.e., customer influx), and in the case of Distribution [4] in the Related News Format Display, this customer influx effect may be regarded as non-monetary compensation for a license to use News Content in Distribution [2] and [3]. As for Distribution [4], consumers use News Portals free of charge, and News Media Operators and News Portal Operators usually generate revenue through digital advertisements displayed in conjunction with News Content.

## (B) Distribution mediated by Internet Search.

### a. Specific aspect of distribution

In Distribution [1] and [2], the consumer accesses News Content on a News Media Site or News Portal via an Internet Search. Specifically, as the result of an Internet Search, a part of the News Content, such as a snippet, is listed and displayed, and a link to the News Content on a News Media Site or News Portal is provided to the consumer. By selecting the link attached to the snippet, etc., the consumer accesses and views the News Content on the News Media Site or News Portal. In Distribution [1], the News Platform intermediates only up to the stage where the consumer accesses the snippet, etc. of the News Content, and its full text News Content is distributed via a News Media Site.

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<sup>26</sup> Some News Portal Operators sell some News Content on a content-by-content basis.

In the display of the Internet Search Results, apart from the section that displays the results of a pure search for external content, excluding advertisements and proprietary content (natural search results), multiple News Contents may be displayed together in a single frame (among such displays, the display frame containing only News Content is hereinafter referred to as the "News Frame"). The News Content to be displayed in the News Frame is selected by an algorithm that is different from that used for natural search results.

**b. Compensation**

In the case of Distribution [1] and [2] in Figure 2-1-10 above (access to News Content on a News Media Site or a News Portal via an Internet Search), the Internet Search Operator does not pay any monetary compensation, and both the News Media Operator and News Portal Operator receive revenue from digital advertisements that are displayed in conjunction with News Content.

**(C) Distribution without News Platform intervention**

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**a. Specific aspect of distribution**

In Distribution [5], consumers directly access and view News Content on a News Media Site by accessing a website operated by the News Media Operator using bookmarks or by using an app provided by a News Media Operator. In this way, in Distribution [5], News Content is distributed without the intervention of a News Platform.

**b. Compensation**

Distribution [5] in Figure 2-1-10 above may or may not involve the payment of monetary compensation from the consumer. The payment of financial compensation from consumers may be made each time individual News Content is viewed, or it may be made through a subscription contract that allows the free viewing of such content for a certain period of time.

In both cases, News Media Operators also generate revenue from digital advertising that appears alongside News Content.

#### (4) Importance of News Platform-mediated distribution

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##### A. Purpose of transactions with News Portal Operators

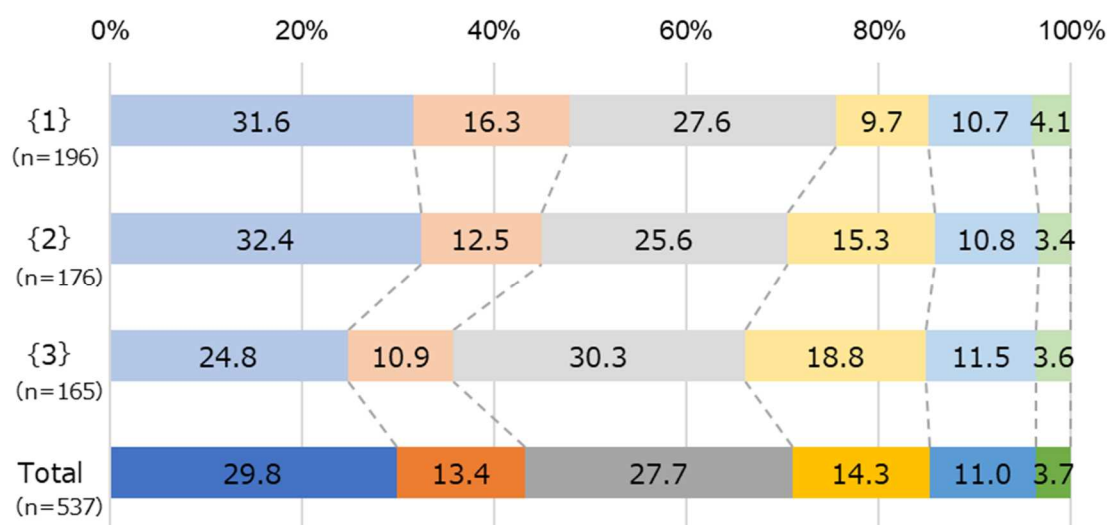
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The News Media Survey asked each News Media Operator the reason to do business with: {1} the News Portal Operators from which they gained the most license fee income in the most recent fiscal year for the News Media Operator; {2} the News Portal Operator from which they gained the second most income; and {3} the News Portal Operator from which they gained the third most income, and Figure 2-1-15<sup>27</sup> shows the results. News Media Operators do business with News Portal Operators for a variety of reasons, including not only to receive monetary compensation in the form of News Content licensing fees, but also to increase the customer influx to their News Media Site via News Platforms and to expand the coverage of important news, etc. When focusing on the responses for "{1} (News Portal Operator from which the most license fee income is gained)" and the "Total", the most important reason for concluding News Content License Agreements with News Portal Operators was the expectation of customer influxes from News Portals (Distribution [4] in Figure 2-1-10 above) (Option a). This was followed by the reason that it is essential to increase income from News Portal Operators for the future direction our news media business (Option c). When combined with the ones who cited that incomes from News Portal Operators are currently an essential source of revenue for the continuation of our news media business (Option b), about 40% of News Media Operators concluded a contract because it is essential for their future or current business (Options b and c).

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<sup>27</sup> The "Total" in Figure 2-1-15 is the sum of the responses from {1} through {3}.

Figure 2-1-15: Most important reasons for doing business with News Portal Operators



- a) We can expect customer influxes from News Portals to our website.
- b) Income from News Portal Operators (i.e., income from providing News Content) is currently an essential source of revenue for the continuation of our news media business.
- c) It is essential to increase income from News Portal Operators for the future direction of our news media business.
- d) Distribution of News Content through News Portals will likely increase our name recognition.
- e) The distribution of News Content through News Portals will enable the broad coverage of important news.
- f) Other reasons.

## (B) Sales related to News Content for News Media Operators

The sales earned by News Media Operators from the distribution of News Content via the Internet consists mainly of the following three components (see (3) above for details).

- (i) Sales earned from News Portals in connection with the licensing of News Content (license fees)
- (ii) Sales from advertising income based on digital advertising displayed in conjunction with News Content distributed on a company's News Media Site (digital advertising income)
- (iii) Sales of News Content to consumers, such as subscription services

and single sales of News Content offered on a company's News Media Site or on websites and apps of other companies (consumer sales income)

Of these, “(i)” represents sales that depend on transactions with News Platform Operators (News Portal Operators), and in contrast, “(iii)” represents sales from News Content sold directly by News Media Operators to consumers, without relying on transactions with News Platform Operators, etc.<sup>28</sup>. Although “(ii)” represents sales at News Media Sites, the majority of such sales are indirectly dependent on transactions with News Platform Operators. This is because, as described below, most of the consumers who access News Media Site are served by News Platforms (In the Figure 2-1-10 above, Distribution [1] (customer influx via Internet Search) and Distribution [4] (customer influx via News Portal) correspond to these customer influx).

According to the News Media Responses<sup>29</sup>, the percentage of customer influx from Internet Search, News Portal, and other inflows to the websites of News Media Operators in 2022 are as shown in Figure 2-1-16<sup>30</sup>. “Others” in Figure 2-1-16 includes the inflows that directly accessed the websites of News Media Operators through bookmarks, etc. (Distribution [5] in Figure 2-1-10 above), as well as those with an unknown inflow.<sup>31</sup>

The results show that for newspapers, at least 89.0% of traffic to News Media Operator websites comes via News Platforms, while the same is

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<sup>28</sup> Some News Media Operators sell News Content on News Portals on a content-by-content basis.

<sup>29</sup> News Media Operators were requested to provide information on the number of inflows by route to their News Media Site from January 2022 to December of the same year (one-year period). The inflow route categories were: (i) total inflow; (ii) Google search; (iii) Yahoo! search; (iv) Bing search; (v) each News Portal (15 services that are considered to be accessed most frequently by consumers were identified); and (vi) other than the above (including direct access to News Media Sites as well as the customer influx that cannot be captured by News Media Operators, including whether or not they originated from News Portals). For a breakdown by News Portal Operator, see Figure 2-2-6 in Chapter 2.2(1)B below.

<sup>30</sup> The calculations were based on information from 17 of the 20 companies that we requested information from, which recorded the number of inflows to their News Media Site by routes for the period from January 2022 through December of the same year.

<sup>31</sup> News Media Operators record the number of inflows only for those News Platforms for which they deem it necessary to understand the status of customer influx. Therefore, even if the inflow falls under (i) to (v) in footnote 29 above, it may be unknown in the record.

at least 71.5% for magazines, at least 94.4% for broadcasters, and at least 85.0% overall. This suggests that most of the traffic to News Media Operator websites comes via News Platforms.

Figure 2-1-16: Percentage of inflows (customer influx) to News Media Operator websites

		Newspaper	Magazine	Broadcast	Total
<b>News Platform</b>		<b>89.0%</b>	<b>71.5%</b>	<b>94.4%</b>	<b>85.0%</b>
	Internet Search	41.8%	28.8%	11.8%	27.5%
	News Portal	47.2%	42.7%	82.6%	57.5%
<b>Others</b>		<b>11.0%</b>	<b>28.5%</b>	<b>5.6%</b>	<b>15.0%</b>

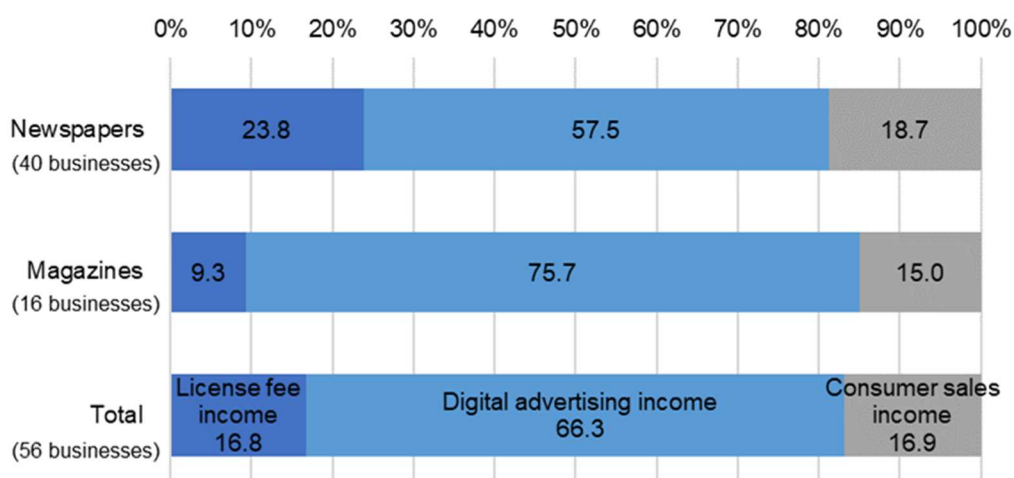
According to the News Media Survey, the ratios for license fee incomes, digital advertising incomes, and consumer sales incomes for each of the newspaper and magazine industries for the online distribution of News Content in proportion to total income in FY2021 (the most recent fiscal year)<sup>32</sup> were as shown in Figure 2-1-17.

Looking at the percentage of sales that directly or indirectly depend on News Platform Operators (percentage of license fees and digital advertising incomes), newspapers and magazines account for 81.3% and 85.0%, respectively, indicating a high degree of dependence on News Platform Operators in the online distribution of News Content.

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<sup>32</sup> The companies that selected newspapers (including news agencies), magazines, or television, as the publishing and broadcasting media with the highest sales, whose annual sales were at least 1 million yen in license fees income, digital advertising income, and consumer sales income were included in the calculation. As a result, TV was excluded from the calculation because there were very few companies that correspond to this category.

Figure 2-1-17 Ratio of license fee income, digital advertising income, and consumer sales income in FY2021 (most recent fiscal year)

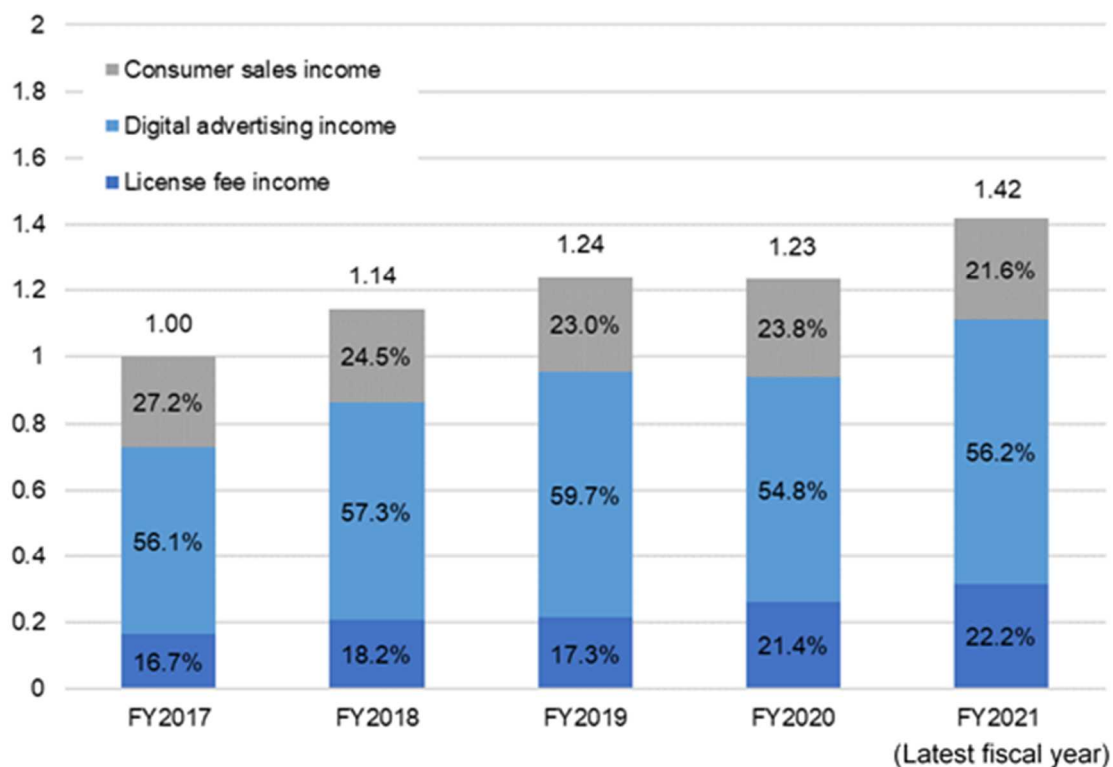


In addition, according to the News Media Responses, trends in license fee income, digital advertising income, and consumer sales income related to the distribution of News Content as electronic data are as shown in Figure 2-1-18.<sup>33</sup>

While overall sales are increasing, the percentage of license fee income is increasing and the percentage of digital advertising income is leveling off, but the percentage of consumer sales income is decreasing. These trends suggest that the importance of distribution through News Platforms is increasing year by year in the distribution of News Content as electronic data.

<sup>33</sup> The calculations were based on information from 18 of the 20 companies that we requested information, which held data pertaining to sales of News Content through electronic data distribution for the period from FY 2017 through FY 2021. The breakdown of sales was calculated as a percentage of total sales for each fiscal year.

Figure 2-1-18 License fee income, digital advertising income, and consumer sales income



The figure is based on FY2017, with the total of 18 companies' sales as of that time set at 1.

### (5) Summary

Consumer behavior regarding the use of News Content is changing, and especially in newspaper and magazine industry, the use of existing media is declining while the use of electronic data is increasing. Amid these changes, the sales earned by News Media Operators from the distribution of News Content in electronic form has been increasing year by year, although it has not been enough to compensate for the decrease in sales caused by a decline in the distribution and use of existing media. In addition, in regard to sales from the distribution of News Content as electronic data, the percentage of this that depend directly or indirectly on News Platforms is high and increasing year by year.

Changes in consumer behavior and distribution structures related to the use of News Content as described above suggest that News Platform-mediated distribution of News Content is becoming increasingly important. Moreover, about 40% of News Media Operators cited that the license fees paid by News Portal Operators are essential for the continuation of their



current news media business or essential for their future business strategy and this is the reason why they do business with News Portal Operators. In addition, the importance of News Platform Operator-mediated News Content distribution is particularly pronounced among News Media Operators that publish newspapers and magazines.

## 2. News Platform Operators

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This section provides an overview of the status of transactions related to News Content, the extent of its use by consumers, and the businesses of major News Platform Operators.

### (1) Degree of use, market share

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As described in 1(3)A above, in the distribution of News Content, centering on News Platforms, there are News Media Operators on one side as News Content suppliers, and on the other side there are consumers who create demand. News Platform Operators are providers of access to News Content as well as distributors of News Content, while News Media Operators obtain license fees and gain a customer influx from News Portal Operators, in relation to the license of the News Content. In this study, we investigated transactions with News Media Operators and the degree of use and market share among consumers from the following four perspectives (Figure 2-2-1, Figure 2-2-2).

- A The amount of the license fee paid by News Portal Operator to News Media Operator for a license to use News Content
- B Pathways for customer influx to the websites of News Media Operators
- C Services used by consumers to find News Content
- D Internet Searches used by consumers to find News Content

Figure 2-2-1 Survey targets of degree and share of use and transactions ((a) and (b))

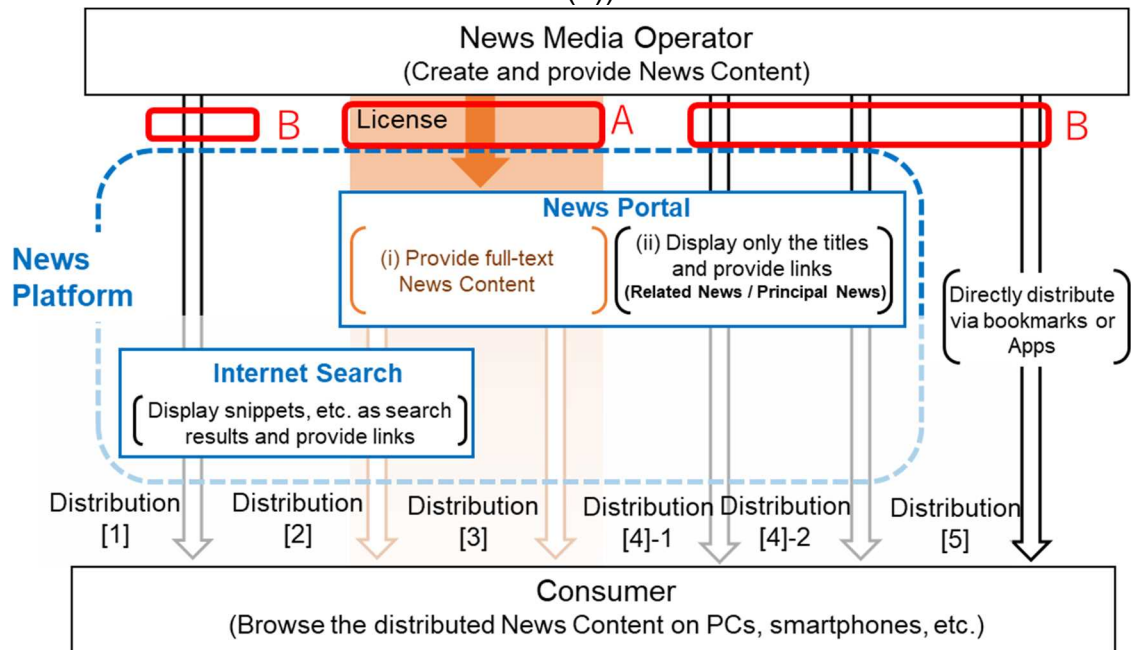
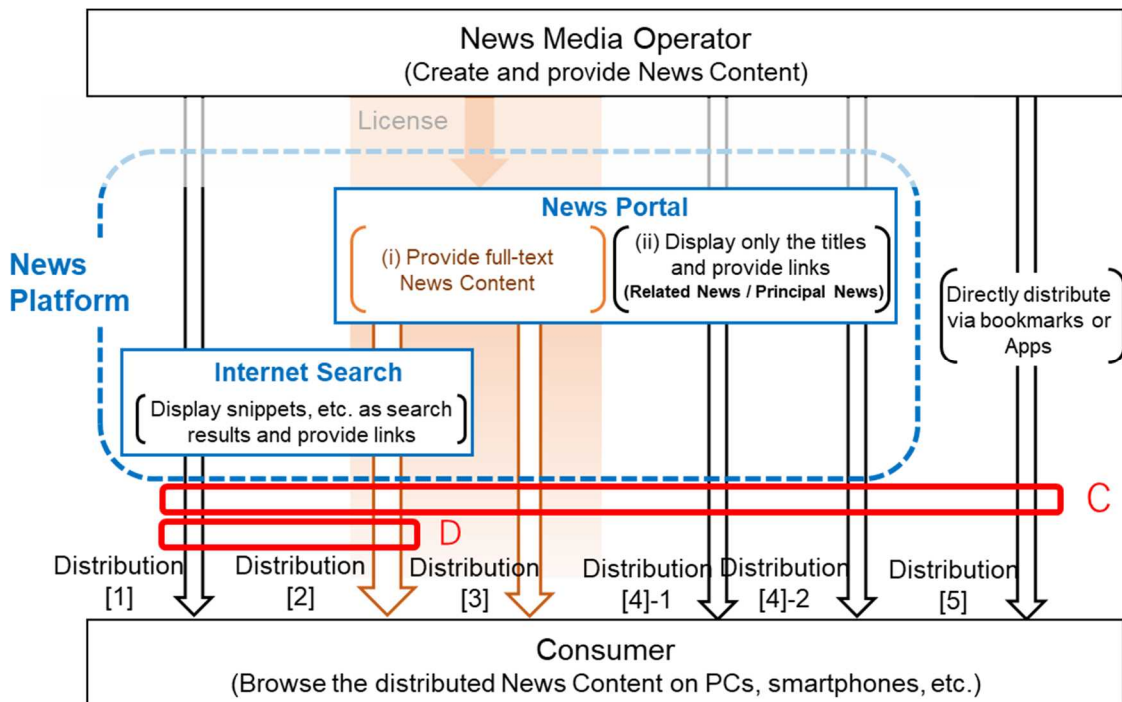


Figure 2-2-2 Survey targets of degree and share of use ((c) and (d))



A. Amount of license fees paid by News Portal Operators to News Media Operators

Regarding the status of transactions between News Media Operators

and News Portal Operators, the News Media Survey asked each News Media Operator: {1} the News Portal Operator from which they gained the most license fee income in the most recent fiscal year; {2} the News Portal Operator from which they gained the second most income; and {3} the News Portal Operator from which they gained the third most income. The results are shown in Figure 2-2-3, and the percentage of News Portals selected as the top three News Portals with the highest transaction amount for {1} through {3} together is shown in Figure 2-2-4. <sup>34</sup>

Yahoo! News was approximately 60% for {1} and approximately 90% for the total of {1} through {3}, and the most common in both cases.

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<sup>34</sup> News Portals that were considered to have a large number of users were displayed as options in the News Media Survey. In this report, for convenience, the graph shows News Portals operated by News Platform Operators that were the subject of News Platforms RFI, and News Portal Operators that operate other News Portals are tabulated as "Other News Portal Operators". The News Portals that were displayed as options in the News Media Survey were, in addition to the News Portals shown in the graph, the widget on iPhone (Apple News), News Digest, News Picks, Livedoor News, and Rakuten Infoseek News, and News Media Operators which answered these News Portals each accounted for less than 1% of the total.

In the case of one or two News Portals that have trades involving license fee income, "None that apply" was selected in {2} or {3}.

Figure 2-2-3 Top 3 News Portals with the most transaction amount for each News Media Operator

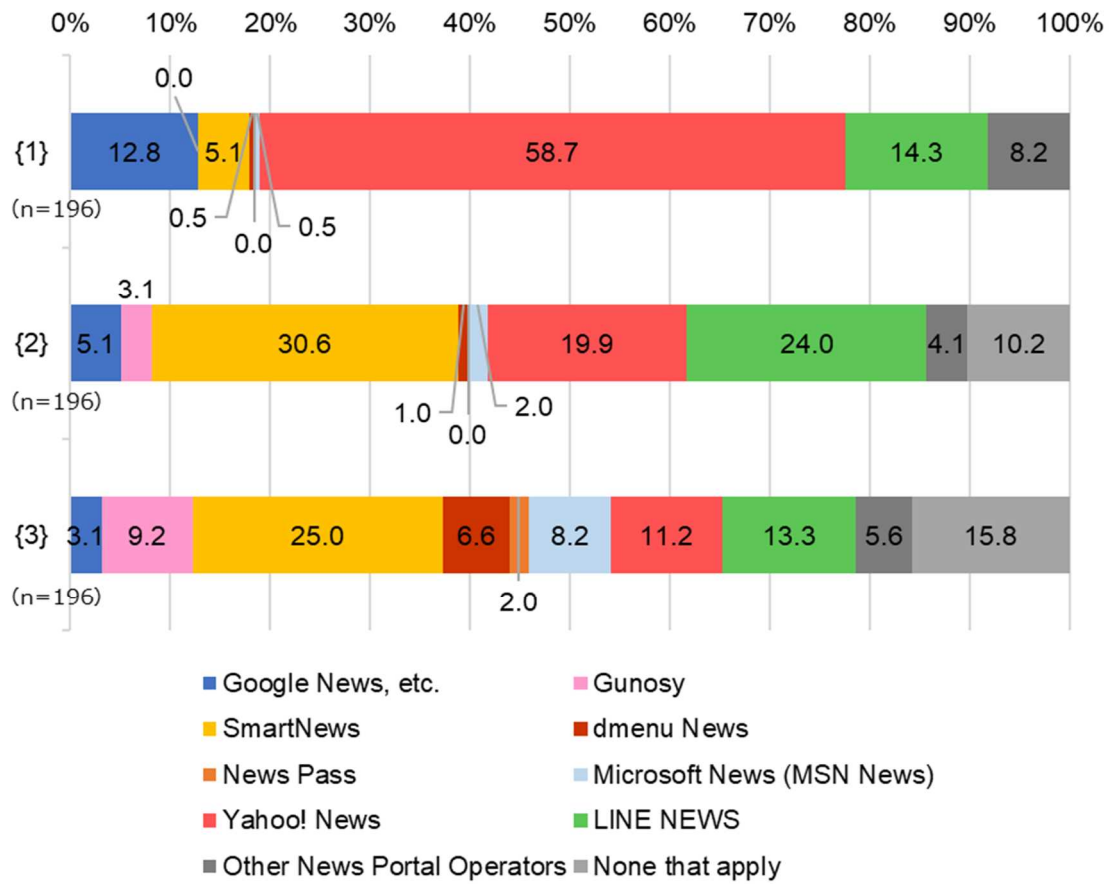
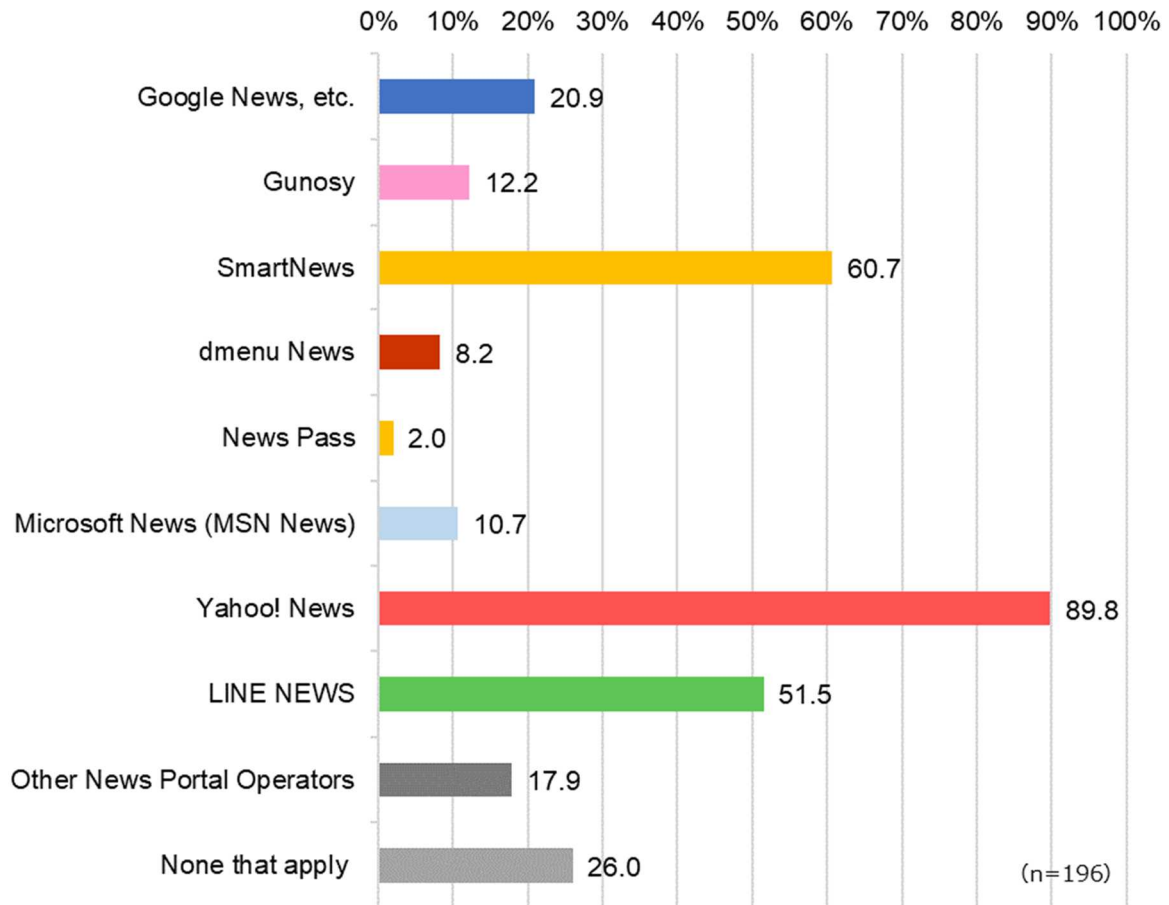


Figure 2-2-4 Percentage selected as the top three News Portals with the highest transaction amount ({1} through {3} in Figure 2-2-3)



According to the News Media Responses, the percentages of each News Portal Operator in the total licensing fees paid by News Portal Operators to News Media Operators in each fiscal year from FY 2019 to FY 2021 (each company's fiscal year) are shown in Figure 2-2-5.<sup>35</sup> From FY 2019 to FY 2021, the share of LINE NEWS increased, but the share of Yahoo! News still remained at 40% or more.

<sup>35</sup> Calculations were based on information from six companies of the seven companies that were requested information, that operate News Portals that provide full-text News Content (News Portals (i) in Figure 2-2-1).

Figure 2-2-5 Percentage of each News Portal Operators in the total licensing fees paid by News Portal Operators <sup>36</sup>

FY2019			FY2020		
Ranking	News Portal Name	Percentages	Rank	News Portal Name	Percentages
1	Yahoo! News	40 – 50%	1	Yahoo! News	40 – 50%
2	LINE NEWS	10 – 20%	2	LINE NEWS	20 – 30%
3	SmartNews	10 – 20%	3	SmartNews	10 – 20%
4	Microsoft News (MSN News)	5 – 10%	4	Microsoft News (MSN News)	5 – 10%
5	Gunosy	0 – 5%	5	Gunosy	0 – 5%
6	dmenu news	0 – 5%	6	dmenu news	0 – 5%
	Total	100%		Total	100%

FY2021		
Ranking	News Portal Name	Percentages
1	Yahoo! News	40 – 50%
2	LINE NEWS	20 – 30%
3	SmartNews	10 – 20%
4	Microsoft News (MSN News)	5 – 10%
5	Gunosy	0 – 5%
6	dmenu news	0 – 5%
	Total	100%

Looking at trends in the overall News Content trading market, the overall amount of licensing fees received by News Media Operators is approximately 1.3 times higher in FY2021 than in FY 2019, according to the News Platforms Responses, which shows that the market is expanding.

#### B. Route of customer influx to the websites of News Media Operators

According to the News Media Responses, the percentages of customer influx from each News Platform to News Media Operators'

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<sup>36</sup> "Gunosy" was calculated based on total payments at Gunosy-operated News Portals (Gunosy, News Pass, etc.). "Microsoft News (MSN News)" was calculated based on total payments at Microsoft Start, a News Portal operated by Microsoft (including MSN Japan, MSN News, Bing News Carousel, etc.).

websites in 2022 is shown in Figure 2-2-6.<sup>37</sup> <sup>38</sup> <sup>39</sup>

The majority of customer influx comes from News Portals and Internet Searches, with Yahoo! services accounting for the largest proportion of customer influx and Google services the second largest, and these account for the majority of customer influx from both services. In terms of Internet Searches, 24.1% of customer influx came from Google Search and 5.9% from Yahoo! Search, with the majority of customer influx coming from both services.

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<sup>37</sup> The calculations were based on information from 17 of the 20 companies that were requested information, which recorded the number of inflows to their News Media Sites by pathways for the period January through December 2022.

<sup>38</sup> In the Figure, "Internet Search" refers to the customer influx from Internet Searches (Distribution [1] in Figure2-2-10 in Chapter 2.1(3)A(A)), "Related News" refers to customer influx through Related News Links on News Portals and through links on the banners of news media names on the News Portal (Distribution [4] in the same figure), and "Principle News" refers to customer influx sent through links on the Principle News Format Display on the News Portal (Distribution [4] in the same figure). "Other" includes direct access to the websites of News Media Operators (Distribution [5]) as well as the number of inflows from other channels not captured by News Media Operator.

<sup>39</sup> The allocation of inflow from each News Platform depends on the settings of News Media Operators. It should be noted that it is difficult to capture inflows from Google Discover (which displays content (including but not limited to News Content) based primarily on what Google's automated system determines to be of interest to the user, rather than displaying search results according to search terms\*), which was pointed out in interviews with News Media Operators that they had been increasing in recent years.

\*See "Google Discover Overview, Listing, and Display | Google Search Central | Documents | Google for Developers".

(<https://developers.google.com/search/docs/appearance/google-discover?hl=ja>)

Figure 2-2-6: Percentages of customer influx from News Platforms to websites of News Media Operators

News Platform	The Ratio in Total Customer Influxes (%)
<b>Internet Search (Distribution[1])</b>	<b>30.7%</b>
Google search	24.1%
Yahoo! Search	5.9%
Bing search	0.7%
<b>Related News (Distribution[4])</b>	<b>39.5%</b>
Yahoo! News	23.3%
LINE NEWS	7.7%
SmartNews	6.5%
dmenu news	0.7%
Gunosy	0.4%
News Pass	0.3%
livedoor NEWS	0.3%
Microsoft News (MSN News)	0.2%
<b>Principal News (Distribution[4])</b>	<b>8.4%</b>
Google News, etc.	8.3%
News Picks	0.1%
Others	21.4%

### C. Services used by consumers to find News Content

The Consumer Survey asked consumers about the services they use to find News Content as electronic data, but this is limited to those services that they use approximately three days a week or more; {1} the most frequently; {2} the second most frequently; and {3} the third most frequently. The results are shown in Figure 2-2-7, and the percentages of services selected as the top three most frequently used from {1} through {1} collectively are shown in Figure 2-2-8. <sup>40</sup>

Looking at the most frequently used services ({1}), Google search

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<sup>40</sup> Internet Search, News Portal, News Media Site, and social media which are considered to be the most popular among users were displayed as options in the Consumer Survey. In this report, for convenience, the graph shows, in addition to Internet Searches, News Portals operated by News Portal Operators which were the subject of the News Platforms RFI, and other services for viewing News Content other than Internet Searches and those News Portals are tabulated in the "Others" category. The "Others" category, 61.5% of the total of responses for {1} through {2}, includes 16.4% for News Portals operated by News Portal Operators that are not subject to the News Platforms RFI, 10.0% for News Media Sites, and 35.1% for social media, etc. In cases where less than three services were used, "None that apply" was selected in {2} or {3}.



accounted for 28.4%, followed by Yahoo! Search for 26.1%, with search services accounting for the highest percentage, then followed by Yahoo! News which is a News Portal. Combining the results from ({1}) through {3}, Google Search accounted for 52.5% and Yahoo! Search for 50.8%, followed by Yahoo! News with 39.1%.

Figure 2-2-7 Top 3 services most frequently used by consumers

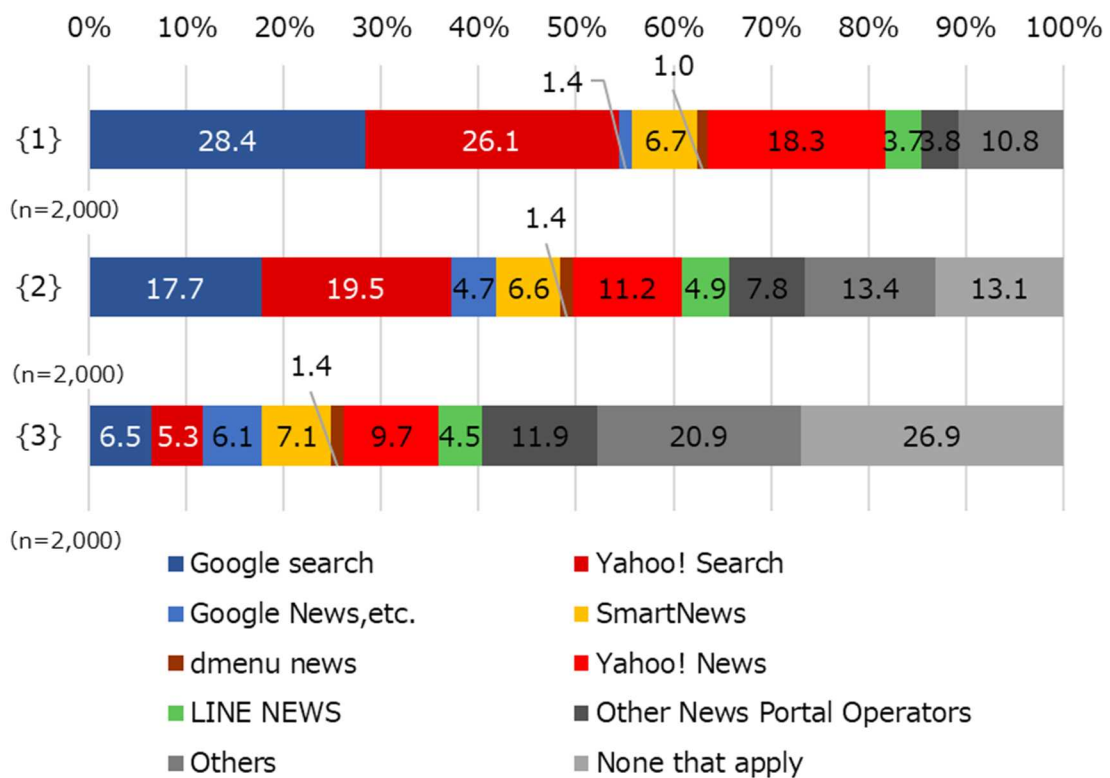
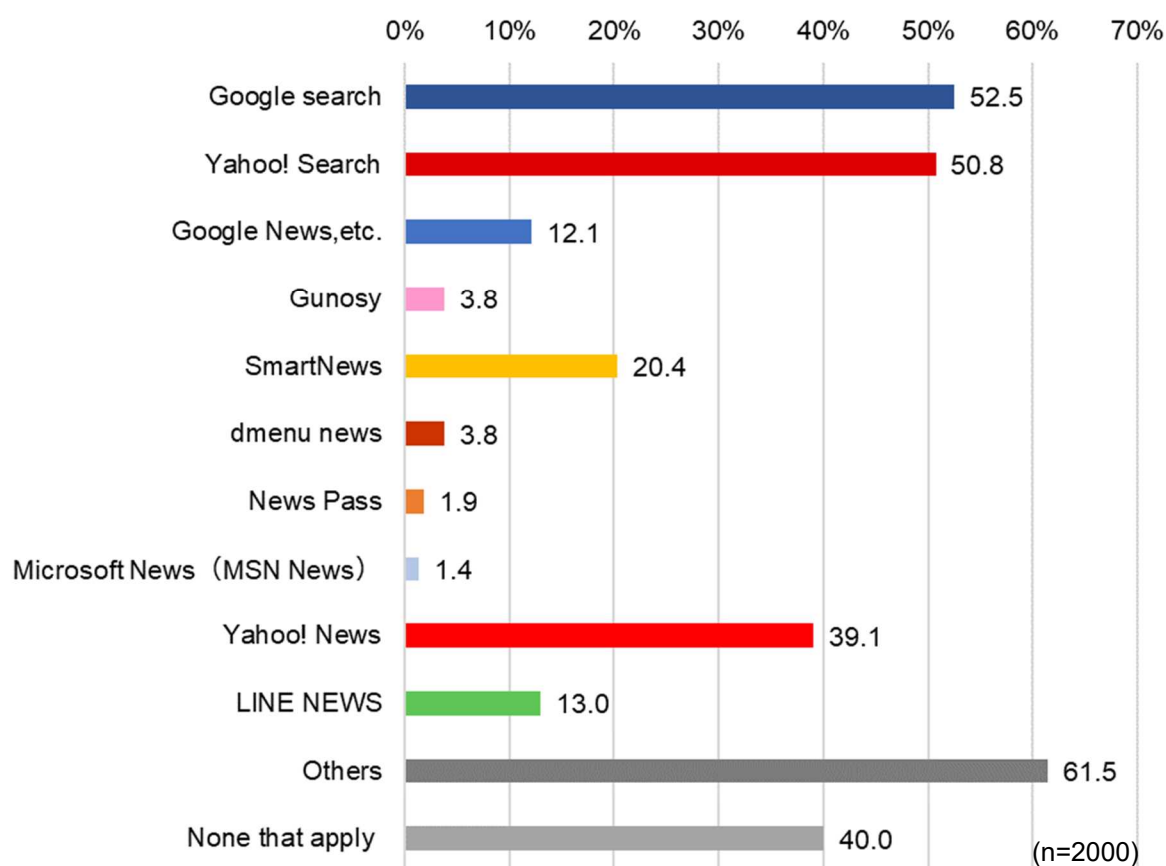


Figure 2-2-8 Percentage of respondents selecting the top three most frequently used services



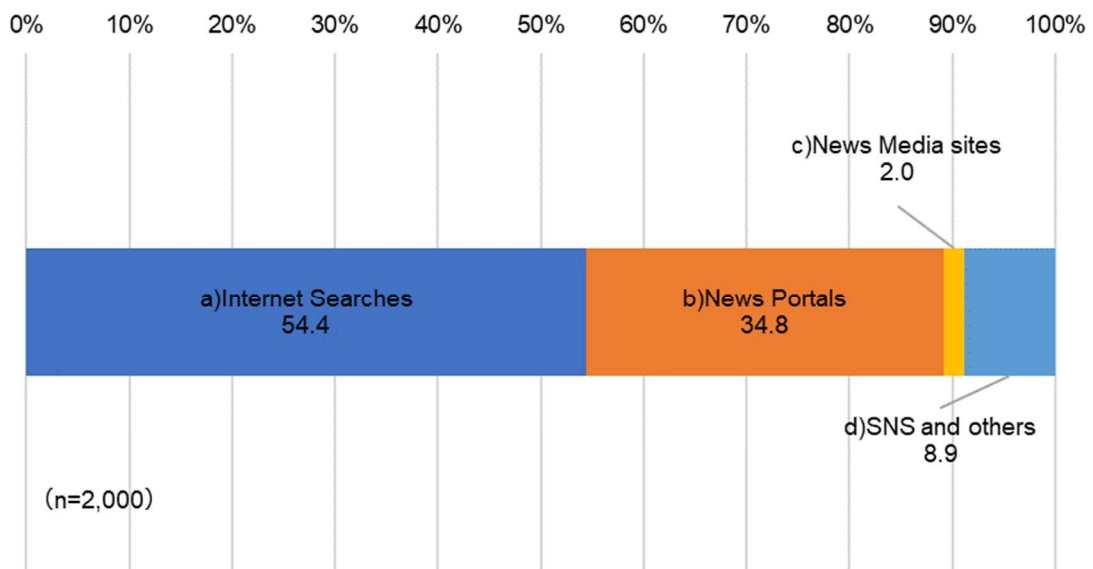
Moreover, the results of the Consumer Survey were also tabulated by service category, including News Portals, Internet Searches, social media, and News Media Sites, as shown in Figure 2-2-9. In each of these services, the use of Internet Searches and News Portals accounted for 54.4% and 34.8% respectively, and they accounted for about 90% in the total. In contrast, use of News Media Sites accounted for 2.0% in total.

In Japan, a relatively high percentage of people use News Portals to find News Content, but interviews with News Media Operators indicated that a high percentage of people in other countries use News Media Sites or Internet Searches to view News Content. <sup>41</sup>

<sup>41</sup> According to Internet users preferences for accessing content online, March 2016," p.30, a survey commissioned by the European Commission's Directorate-General for Communications Networks, Content

The results of the Consumer Survey pertain to the services that consumers use when they search for News Content. When consumers browse News Content, the percentage of use of News Portal and News Media Sites is supposed to be higher than the above-mentioned percentages (34.8% and 2.0%, respectively).

Figure 2-2-9 Most frequently used services (by service category)



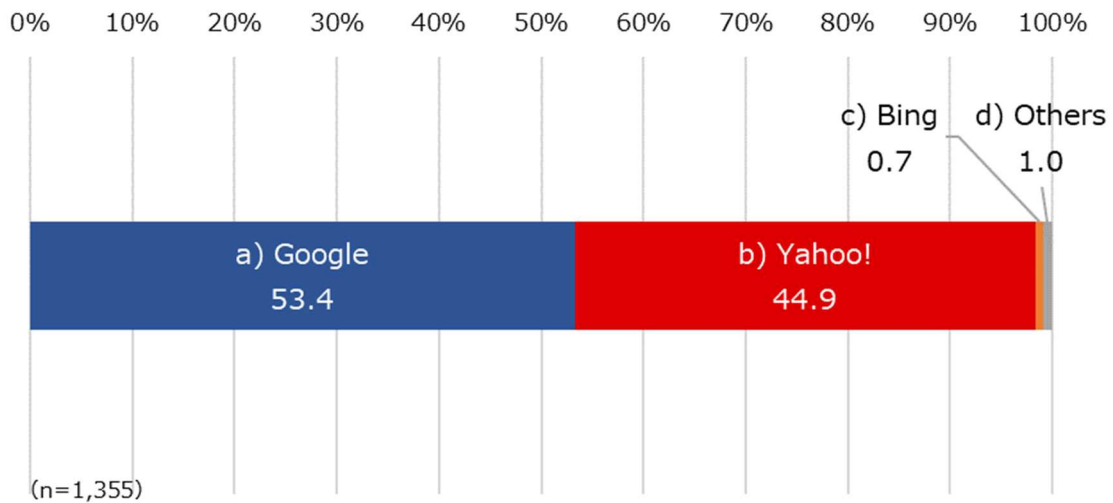
#### D. Services used by consumers for Internet Searches

According to the Consumer Survey, the percentages of each Internet Search that consumers primarily use to find News Content is shown in Figure 2-2-10.

Google Search (53.4%) was the most frequently used Internet Search, followed by Yahoo! Search (44.9%).

and Technology, the percentage of services which Internet users mainly use to read online news is 42% for "Newspaper and magazine websites and apps," 22% for "Social media," 21% for "Internet Search," 14% for "News aggregation services," 0% for "Others," and 1% for "Don't know."

Figure 2-2-10 Internet Searches that are mainly used



(2) Sales, etc., of major News Portal Operators

As mentioned in Chapter 2.1(5) above, intermediation by News Platforms is important in the distribution of News Content. The following outlines the sales of News Portal Operators.

Following the News Platforms Responses, total sales<sup>42</sup> from the News Portal business (or the business segment to which the News Portal business belongs) of five News Portal Operators<sup>43</sup> are shown in Figure 2-2-11 (in this figure, the total sales amount for FY 2017 is set as 1, and amounts for other fiscal years are indexed to it).

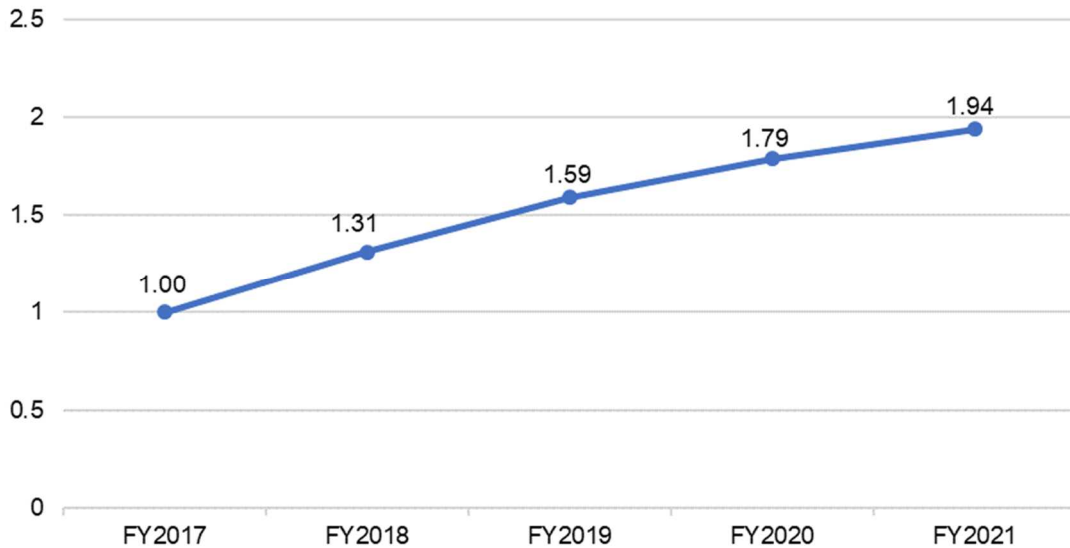
The total sales of these five companies have been increasing every year, and the total sales of these five companies in FY2021 was approximately double that of FY2017.<sup>44</sup>

<sup>42</sup> The period covered by each fiscal year is based on the fiscal year of each News Platform Operator. Some companies changed their fiscal periods during the subject period. Figures include revenue from News Content licensed from individuals.

<sup>43</sup> Google was excluded from the survey because it said it does not receive sales from its News Portal (Google News Showcase), which involves payment of license fees. Microsoft did not respond because it said it does not maintain historical data.

<sup>44</sup> This is approximately 1.2 times higher than that in FY 2019.

Figure 2-2-11 Changes in sales for News Portal Operators from News Portal businesses



The average amount of sales<sup>45</sup> and operating profit<sup>46</sup> of the News Portal business (or business segment to which the News Portal business belongs) and income<sup>47</sup> derived from digital advertising in the News Portal for the fiscal year 2021<sup>48</sup> of four News Portal Operators<sup>49</sup> shows that 99% of the sales from the News Portal business were generated by digital advertising. The average ratio of operating profit to sales, calculated from the sales and operating profit, was about 28%.

### (3) Overview of services of major News Platform Operators

The following provides an overview of News Platforms operated by Yahoo, SmartNews, LINE, and Google that were identified as having a high

<sup>45</sup> Figures related to News Content licensed for use by individual news media may be included.

<sup>46</sup> Includes approximate figures. Includes figures for News Content licensed from individual news media.

<sup>47</sup> Includes approximate figures. Includes figures for News Content licensed from individual news media.

<sup>48</sup> The period covered in each fiscal year is based on the respective fiscal year of each News Platform Operator.

<sup>49</sup> For Google and Microsoft, see above. In addition, Docomo was unable to provide a response because it has not calculated operating income for its News Portal business on a stand-alone basis and is unable to calculate an estimate based on figures from the relevant business segment.

percentage of transactions or usage in the News Media Survey and Consumer Survey.<sup>50</sup>

## A. Yahoo

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### (A) Business outline

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Yahoo Japan Corporation (Yahoo) was established in January 1996 for the purpose of providing information search services on the Internet. In April of that year, Yahoo! Japan, an Internet Search website, was launched, and the News Portal Yahoo! News followed in July.

Yahoo has News Content License Agreements with 696 media (451 companies) (as of December 2022).

### (B) Outline of services

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Yahoo! Japan provides Yahoo! News, a News Portal, and Yahoo! Search, an Internet Search, on both its website and its apps.

Today's Yahoo! JAPAN is an Internet portal and, in addition to Yahoo! News and Yahoo! Search, it holds links to various services such as shopping services and auction services.

#### a. News Portal (Yahoo! News)

In the website version of the Yahoo! JAPAN Internet portal, at the Main News Column section at the top of the screen there are eight headlines with News Content displayed for different categories, including major topics, entertainment, sports, and economy (called "Topics"). In addition, below the eight headlines, there is a "Timeline" that displays a number of headlines and thumbnails of News Content on Yahoo! News. The Top Page of Yahoo! News is separated from the Yahoo! JAPAN Internet portal, but it also has a "Timeline" in addition to a "Topics" section.

An Intermediate Page is displayed when one of the eight "Topics" headlines are selected on the Top Page of the Internet portal or Yahoo! News. This page displays the headline and an excerpt of the full text, as well as a comments section where readers can post

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<sup>50</sup> Unless otherwise noted, the information shown for each service and other information is based on information verified in July 2023.

comments on the News Content.

Selecting "Read Full Article" on the Intermediate Page will bring up the Details Page, and on this page, in addition to the full text of the News Content, there are Related News Links, comment boxes, etc., as well as reaction buttons for rating the News Content, such as "informative," "easy to understand," or "new perspective."

The Details Page is displayed when the "Timeline" is selected on the Top Page of both the Internet portal and Yahoo! News.

#### b. Internet Search (Yahoo! Search)

Search results that display News Content include results of natural search (also known as organic search), and the News Frame<sup>51</sup>, which displays only News Content from Yahoo! News.

The natural search uses a search engine provided by Google, but the News Frame uses a different algorithm from the Google search engine.

### B. SmartNews

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#### (A) Business outline

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SmartNews, Inc. (SmartNews) was established in June 2012 and its SmartNews news app was launched in December of the same year. The site posts News Content licensed from News Media Operators.

Smart News has approximately 3,000 media partners (as of April 2023).

#### (B) Outline of services

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SmartNews is an app-only News Portal. Using the SmartNews app, consumers can browse a Top Page which contains the Headlines-etc. of News Content, and Details Pages which contains the full text of that content. While the Top Page shows headlines and thumbnails for major news items by different categories, such as "Top," "Regional," "Entertainment," "Sports," etc., the Details Pages shows News Content headlines, and the full text of News Content, etc., as well as Related News Links.

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<sup>51</sup> This is a type of search result display based on a feature called "Direct Search" provided by Yahoo.

## C. LINE NEWS

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### (A) Business outline

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The predecessor of LINE NEWS, Hangame Japan K.K., was established in September 2000, while the current LINE Corporation (LINE) was established in December 2019. LINE launched its messenger app “LINE” in June 2011 and a separate “LINE NEWS” app in July 2013 (now closed), “LINE NEWS DIGEST” on LINE NEWS’ official LINE account (see below (B)b.) in April 2014, a function for News Media Operators to distribute news using an official LINE account known as “LINE ACCOUNT MEDIA” (see below (B)b.) was added in December 2015, and a function called News Tabs was added to LINE app in February 2017.

LINE has News Content License Agreements with 699 media outlets for News Tab and LINE NEWS DIGEST, and 452 media outlets for LINE ACCOUNT MEDIA (as of 2022).

### (B) Outline of services

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LINE provides a News Portal on the LINE app, which includes a News Tab primarily for viewing News Content and a Talk Tab primarily for sending and receiving messages. Consumers can view News Content from any of the tabs as follows.

#### a. News Tab (LINE app)

When a consumer browses News Content on the News Tab, they can browse in the order of the Top Page, Details Page or Top Page, followed by an Intermediate Page and finally the Details Page. In the Top Page, there are pages for each category, such as “Top,” “Domestic,” “Sports,” and “Economy”. In the “Main News” section of the Top Page, there are multiple headlines for News Content, and under these multiple headlines, there are many more headlines and thumbnails for News Content. In addition, multiple News Content headlines are displayed on pages other than the “Top” category, such as the categories “Domestic”, “Sports”, and “Economy”.

The Intermediate Page appears when you select one of the News Content headlines in the “Main News” section. The Intermediate



Page displays the headline and a partial excerpt of the full text of the News Content.

Selecting "Read More" on the Intermediate Page will display the Details Page. This page displays the headline, the full text, and "External Links" (Related News Links). In some cases, the Details Page is displayed by selecting a headline on the Top Page.

#### b. Talk Tab (LINE app)

Consumers can view News Content from Talk Tabs by adding LINE NEWS or any News Media Operator's official LINE account as a friend and receiving digest feeds. While the distribution of digests via LINE NEWS' official LINE account ("NEWS DIGEST") is based on the same contract as the contract for News Tabs mentioned in "a." above, a separate News Content License Agreement is concluded between LINE and News Media Operators for the distribution of digests via the official LINE accounts of News Media Operators ("LINE ACCOUNT MEDIA").

If a consumer adds the LINE NEWS' LINE official account as a friend, they will receive the LINE NEWS DIGEST four times a day. In that digest, the headlines of eight pieces of News Content produced by various News Media Operators will be displayed, and selecting one of them will display the News Content page on LINE's News Portal.

When a consumer adds the official LINE account of any News Media Operator as a friend, the consumer will receive messages at a frequency set by each News Media Operator (mainly three times a week to daily). The message will contain headlines of News Content produced by the News Media Operator, and selecting one of the headlines will display the News Content page on LINE's News Portal.

## D. Google

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### (A) Business outline

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Google LLC was founded in the U.S. in September 1998, and it released a beta version of its Internet Search service (Google Search) for Japan in August 2000, and launched Google News and Google

News Showcase services for Japan in September 2004 and September 2021, respectively. Google LLC has News Content License Agreements with 50 companies (as of 2022). Google Japan G.K. is a Japanese subsidiary of Google LLC (hereinafter referred to as "Google" without distinguishing specific companies, including affiliated companies.).

## (B) Outline of services

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Google provides a News Portal and an Internet Search through its website and apps.

### a. News Portal

In the Google News Showcase, the headlines, thumbnails, etc., of one or more News Content are displayed in a News Content display frame for each medium (multiple display frames can be set per medium). When a consumer selects a headline, thumbnail, etc., of News Content, they are taken to a related News Media Site where they can view the full text of the News Content.

In addition, Google also displays links to News Content on its services "Google News" and "Discover"<sup>52</sup>. "Google News" is a service that displays links to News Content, and "Discover" is a service that displays links to content (including non-News Content) based primarily on what Google's automated system determines to be of interest to the user. In both services, headlines, thumbnails, etc., of News Content are displayed, and by selecting one of these, the user can go to the related News Media Site or News Portal and view the full text of the News Content.

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<sup>52</sup> "Google Discover Overview, Listing, and Display | Google Search Central | Documents | Google for Developers"  
(<https://developers.google.com/search/docs/appearance/google-discover?hl=ja>)

In the News Platforms Responses, Google indicated that Discover should not be considered as a News Portal because its content has links which are not limited to News Content. However, considering the fact that links to News Content are displayed in Discover's feed (a series of scrollable content), Discover was classified as a News Portal in this study.

## b. Internet Search

In Google Search, search results that display snippets and links to News Content include natural search results and News Frames that collectively display links, headlines, thumbnails, etc., to News Media Sites, other News Portals, etc., on the search results page.

<sup>53</sup>

## 3. Use of News Content on News Platforms

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In this section, we summarize the status of contracts between News Portal Operators and Internet Search Operators and News Media Operators in regard to the use of News Content on News Portals, as well as the items raised by News Media Operators as they relate to issues on transactions with News Platform Operators.

### (1) Use of News Content in News Portals

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The following sections provide an overview of News Content License Agreements, the status of distribution to News Media Operators of the revenue earned from the use of News Content by News Portal Operators, and the perception of agreements by News Media Operators.

In addition, some News Media Operators pointed out that the inflow from Internet Searches to News Media Sites may decrease due to design changes on News Portal (introduction of "canonical tag"<sup>54</sup>) by News Portal Operators. In light of this, we conducted a survey on the impact of these kind of design changes on Internet Search Results, and the results of this survey are summarized below.

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<sup>53</sup> Google refers to "organic search" as "keyword search results excluding paid advertising" as a concept similar to "natural search" in this report. Google also states that the News Frame (Top News Unit) in Google Search is a grouping of search results, including News Content, as part of the organic search results. According to Google's definition, this News Frame (Top News Unit) is also included in organic search. According to Google, News Frames appear in only a small portion of search results.

<sup>54</sup> Canonical tag is a HTML tag that specifies which web page should be given priority in web pages containing duplicate content. See "E" below for details.

## A. Summary of News Content License Agreement

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### (A) News Content subject to licenses

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News Content posted on News Portals under license from News Media Operators is often identical to News Content posted on News Media Sites. <sup>55</sup>

Interviews with News Portal Operators indicate that, with respect to News Content that is licensed by News Media Operators, they have established guidelines ("Posting Guideline") that prohibit the posting of certain content, including content that is inappropriate in light of socially accepted norms, while leaving the choice of what News Content is to be provided to the discretion of each News Media Operator, to the extent that it does not violate the standards of the Posting Guideline, and the interviews also indicate that the News Portal Operators themselves do not specify individual News Content or request it be provided. On the other hand, some News Media Operators pointed out that the operation of the Posting Guideline is unclear and that there are cases where a decision on whether or not to post News Content is substantially made at the discretion of the News Portal Operator (see 1(4) in Chapter 5 below).

### (B) Use of licensed News Content

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Under a News Content License Agreement, News Portal Operators generally receive a license from a News Media Operator to use News Content consisting of headlines, full text, photos, etc., including reproduction and processing, and can post these on the News Portal they operate.

Some News Portals only post headlines and thumbnails of News Content, but not the full text of the News Content (Distribution [4] in Figure 2-1-10 above). For such News Portals, there are cases where a News Content License Agreement has been concluded, and there are cases where no News Content License Agreement has been concluded. In either case, the link attached to the headline will transfer the user to the News Media Site where the full text of the News Content is posted so that they can view it.

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<sup>55</sup> In this case, the same News Content would be distributed on both the News Media Site and the News Portal.

A News Content License Agreement may also include in the scope of the license the posting of headlines or excerpts of News Content or links to such News Content on social media by the News Portal Operator itself or by consumers.<sup>56</sup>

The News Portal Operator selects some News Content licensed by News Media Operators based on its own criteria, and displays a list of these Headlines-etc., under the title of "Major News" or "Topics" on the Top Page of their News Portal or in other places easily viewable by consumers (Main News Column). According to News Platforms Responses, the criteria for selecting News Content to be displayed in the Main News Column are defined in terms of breaking news, public nature and public interest, and quality, length, freshness, and attention of the content. The actual selection is made by the editorial department of the News Portal Operator or it is automatically selected (using AI, etc.), and this selection may be optimized (personalized) based on the information and interests of individual consumers.<sup>57</sup> According to News Platforms Responses, in cases where the same type of News Content is licensed by more than one News Media Operator, the selection is made based on quick reporting and quality of content among other criteria.

### (C) License fees

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#### a. Methods for setting license fees

Methods for setting license fees to be paid for the use of News Content include the following (a) through (d).

(a) A fixed amount is paid for the use of News Content for a fixed

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<sup>56</sup> Whether the destination of the link attached to a social media post is a News Portal or a News Media Site depends on the News Portal Operator.

<sup>57</sup> In interviews with News Media Operators, they expressed concerns that such personalization can result in the formation of communities of users with similar interests and opinions to their own, creating an "echo chamber" where they are only exposed to opinions similar to their own, and a "filter bubble" where information other than their personalized preferences is automatically rejected. It has also been pointed out that efforts are being made with regard to echo chambers and filter bubbles by operators, including businesses that mediate the distribution of information. (Ministry of Internal Affairs and Communications, "White Paper on Information and Communications 2022" (July 2022), p. 38) (<https://www.soumu.go.jp/johotsusintokei/whitepaper/ja/r04/html/nd122300.html>)

period of time, such as a monthly fee.

- (b) Advertising incomes<sup>58</sup> earned from digital advertising displayed in conjunction with News Content are paid. This is multiplied by a contractually defined percentage (prorated) (known as "revenue sharing"). A minimum amount<sup>59</sup> to be paid regardless of the actual calculated amount ("minimum guaranteed amount") may be set, or the fixed amount described in (a) above may be used in combination with it.
- (c) The unit price per PV specified in the contract is paid multiplied by the number of times the web page on which the News Content is posted is viewed<sup>60</sup> (i.e., the number of PVs). A minimum guaranteed amount may be set, or the fixed amount in (a) above may be used in combination with it.
- (d) In addition to the amounts calculated in (a) through (c) above, News Portal Operators may add additional amounts calculated based on their own criteria.<sup>61</sup>

Some News Content License Agreements do not specify a license fee for the use of News Content. In such agreements, the customer influx to News Media Sites resulting from Related News Links (see 1(3)A(A) above, Figure 2-1-10, Distribution [4] (when the News Portal displays only the title of News Content and provides a link to

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<sup>58</sup> In general, advertising income is not the amount actually earned by News Portal Operators from the placement of digital advertisements, but the amount after deducting the expenses and other costs of the News Portal Operator.

<sup>59</sup> In News Platforms Responses, among other things, it was pointed out that they tend to set the minimum guarantee amount for News Media Operators that provide highly public and irreplaceable News Content, although the demand is expected to be small and PV is unlikely to be attracted.

<sup>60</sup> In some News Portals with Intermediate Pages and Details Pages (see 1(3)B(A)a above), only the Details Page may be included in the calculation of the number of PVs.

<sup>61</sup> In the News Platforms Responses, the response of users to the relevant News Content and the adoption rate for the Intermediate Page are mentioned as factors to be considered in criteria. On the other hand, News Media Operators pointed out that specific criteria and calculation methods are not disclosed (see Chapter 5.1(1) below).

the News Media Site), B (A) a and (D) below)) is positioned as the only compensation for the use of News Content<sup>62</sup>. This type of News Content License Agreement that does not involve monetary compensation (license fee) is known as a customer influx model, and it is commonly seen in contracts concluded by relatively small News Media Operators.

In addition, some News Content License Agreements require News Media Operators to use digital advertising services provided by News Portal Operators on the News Media Sites to which customers are sent via Related News Links.

#### b. Level of license fees

According to responses from News Platforms, the level of license fees per 1,000 PV for each year from FY 2019 to FY 2021<sup>63</sup> is shown in Figure 2-3-1.

Although various methods are used to set the license fees for the use of News Content as described above, in order to make a uniform comparison of the level of license fees paid to News Media Operators, Figure 2-3-1 calculates the license fee per 1,000 PV for each News Portal Operator by dividing the total amount of license fees paid to News Media Operators by the number of PV for which license fees were paid, without distinguishing the method used to set the fees.<sup>64</sup> <sup>65</sup>

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<sup>62</sup> Some News Content License Agreements clearly state that customer influx through Related News Links is the compensation from the News Portal Operator to the News Media Operator for the News Content license.

<sup>63</sup> The period covered in the relevant fiscal year depends on the respective fiscal year of each News Platform Operator (the same applies hereinafter to the calculation of the license fee per 1,000 PV).

<sup>64</sup> Based on information from six of the seven companies that were requested information, which provide full-text News Content in News Portals.

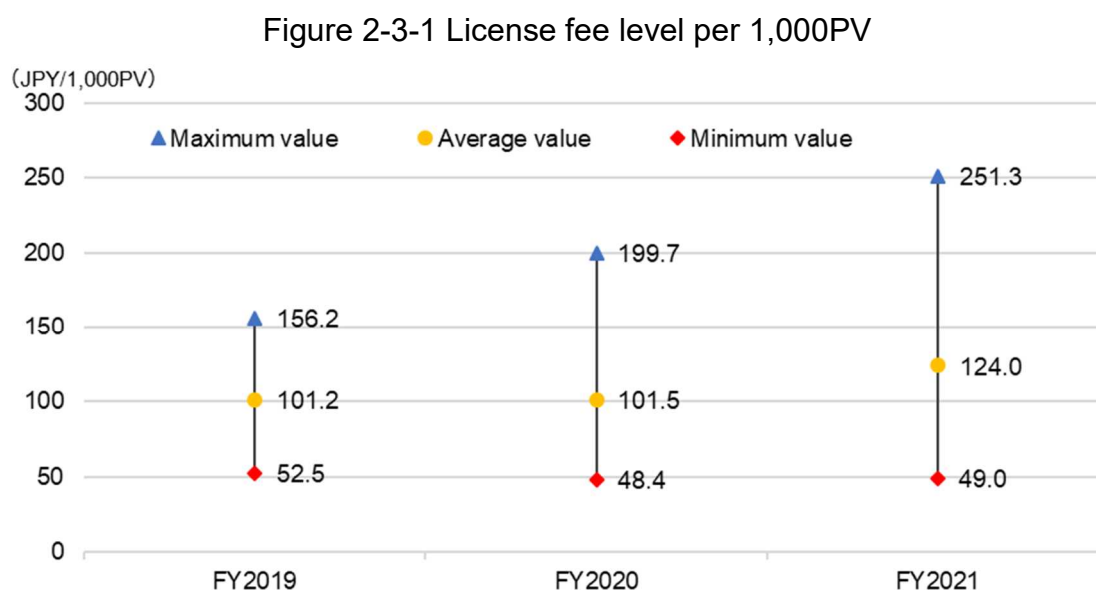
The figures include the aggregate of multiple News Portals operated by one company, and all figures include approximate values. The total license fee includes an amount converted into Japanese yen according to the exchange rate of the corresponding year, which was calculated by the JFTC based on the "Exchange Rate (Tokyo Interbank Offered Rate) (Monthly) Tokyo Market Dollar/Yen Spot at 17:00/end of month" published by the Bank of Japan, after receiving submissions in US dollars from the operators (the same applies hereinafter to the calculation of the license fee per 1,000 PV).

([https://www.stat-search.boj.or.jp/ssi/mtshtml/fm08\\_m\\_1.html](https://www.stat-search.boj.or.jp/ssi/mtshtml/fm08_m_1.html))

<sup>65</sup> In News Platforms Responses and others, the level of compensation is determined by negotiation, with

In Figure 2-3-1, the average, maximum, and minimum values for the values calculated for each News Portal in accordance with the above.

For FY2021, the average value is about 124 yen, and the maximum value is about 251 yen, while the minimum value is about 49 yen, which is about one-fifth of the maximum value.



Next, according to News Platforms Responses, the level of licensing fees compared by media type and business size in FY2021 are shown in Figures 2-3-2 and 2-3-3, respectively. <sup>66</sup>

consideration given to the quality and rarity of the News Content (e.g., News Content that can be expected to be distributed in specific categories where articles are depleted, News Content that cannot be covered by other News Media Operators, News Content that can be expected to be breaking news, etc.), the News Media Operator's operational track record of the website, the period of time during which News Content can be posted on the News Portal, and other factors. On the other hand, in the interviews with News Media Operators, it was pointed out that there is no room for negotiation regarding the conditions presented by News Platform Operators.

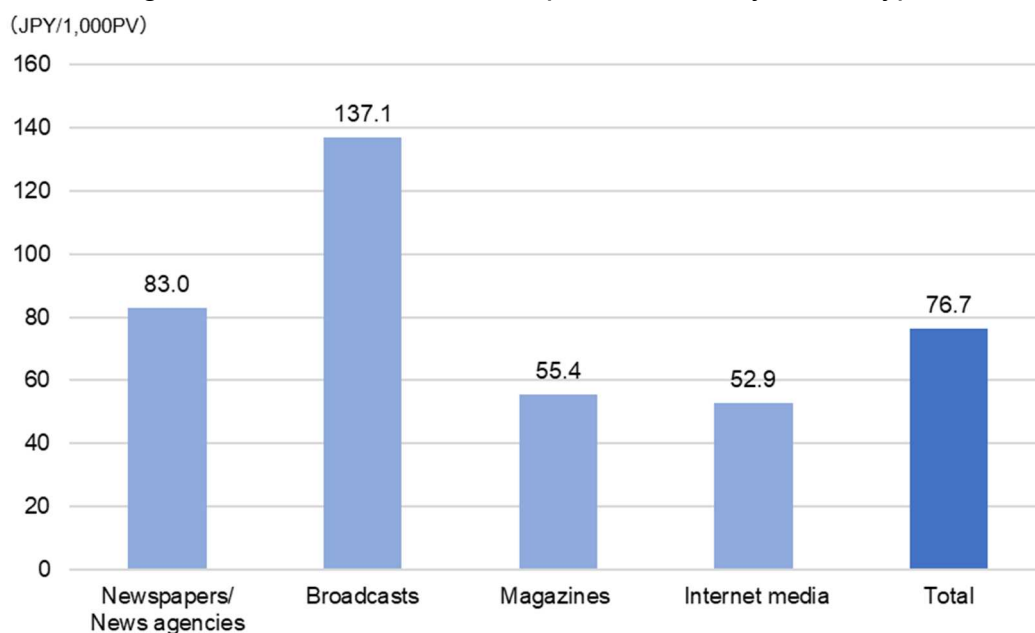
<sup>66</sup> Based on information from six of the seven companies that were requested information, which provide full-text News Content on News Portals. The license fee payment per 1,000 PV shown in Figure 2-3-2 and Figure 2-3-3 was calculated based on (i) and (ii) below (the scope of News Media Operators subject to calculation differs from that of Figure 2-3-1 above).

(i) Calculation method of license fees in Figure 2-3-2

For each media type, we calculated the total amount of license fee payments from all News Portal Operators to News Media Operators falling under the following (a) or (b) and the total number of



Figure 2-3-2 License fee level per 1,000PV by media type



PVs of web pages subject to those license fee payments, and divided the former by the latter to calculate the average license fee payment per 1,000 PV for each media type.

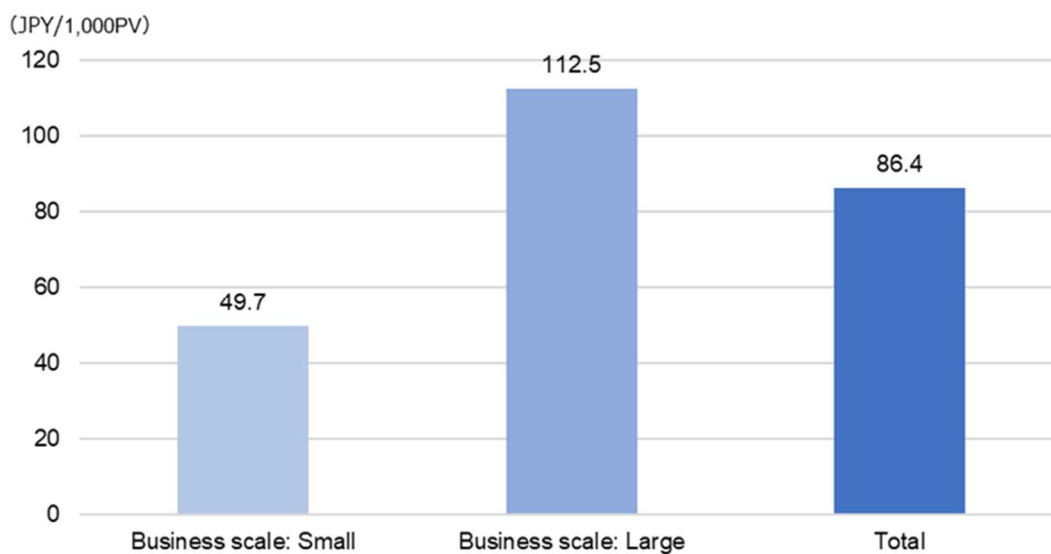
(a) For newspapers, magazines, and broadcasting, 35 companies that had business relationships with each News Platform Operator out of 41 News Media Operators selected by the JFTC (the top or middle-ranking companies in terms of business scale were selected; 24 newspapers and news agencies, 10 magazines, and 10 broadcasting stations were targeted).

(b) For Internet specialized media, the top 5 operators in terms of license fee payment among Internet specialized media that have a business relationship with each News Platform Operator.

(ii) Calculation method of license fees in Figure 2-3-3

With respect to News Media Operators in (i)(a) above, based on the responses to the News Media Survey (sales in the most recent fiscal year for the core business), we classified the top 17 companies in terms of sales as "Business Scale: Large" and the bottom 18 companies as "Business Scale: Small". Then, for each business scale category, we calculated the total amount of license fees paid by all News Portal Operators to the News Media Operators in (i)(a) above and the total number of PV of web pages subject to license fee payment, and divided the former by the latter to calculate the average license fee amount per 1,000 PV for each business scale category.

Figure 2-3-3 License fee level per 1,000PV by business size



#### (D) Customer Influx from News Portals

As described in 1(4)A above, News Media Operators often have an expectation of a customer influx from a News Portal to their News Media Sites when they conclude a News Content License Agreement with a News Portal Operator. This customer influx, together with the license fee mentioned in (C) above, has the nature of compensation for the use of News Content. The following describes the arrangements in News Content License Agreements regarding the display of Related News Links and other indications that bring a customer influx to a website, as well as the actual conditions for a customer influx through such links.

##### a. Arrangements in News Content License Agreement, etc.

News Content License Agreement or guidelines established by News Portal Operators specify the details of Related News Links, including whether or not they can be established, the position and number of links to be displayed, and the criteria for selecting News Content to be linked to.

The location and number of Related News Links are often specified in the guidelines, for example, three to five Related News Links per principal News Content may be placed at the bottom of the display of that News Content, and one Related News Link may be

placed between paragraphs in the description of that News Content.

In many cases, in regard to News Content that is to be linked to, News Media Operators are permitted to select specific content, while certain content, such as content that might be offensive to public order and morals, is prohibited in the selection criteria. <sup>67</sup>

In addition to Related News Links, News Content License Agreements may also stipulate that News Portal Operators place a news media logo with a link to the News Media Site on the News Portal. In this case, the link also brings a customer influx from the News Portal to the News Media Site.

#### b. Percentage of customer influx per number of PVs in the News Portal

According to News Platforms Responses,<sup>68</sup> the percentage of the number of clicks on Related News Links on News Portals out of the number of PVs for which the license fee for the use of News Content is paid is about 8%. This percentage has been increasing in the last three years.

Figure 2-3-4 Percentage of the number of customer influxes of number of PVs on News Portals

Fiscal Year	2019	2020	2021
Percentage (simple average of 3 companies)	7.4%	8.1%	8.9%

### B. Distribution of revenue to News Media Operators

According to News Platforms Responses<sup>69</sup>, News Portal Operators

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<sup>67</sup> In addition to Related News selected by News Media Operator, links to News Content selected by News Portal Operator based on their algorithm may be separately displayed. In such cases, the number of such links to be displayed for the News Portal Operator's selection is stipulated separately.

<sup>68</sup> Calculations were based on information from three of the seven companies that were requested information, excluding those that do not use Related News Links and those that indicated that they do not record the total number of clicks on Related News Links. The period covered in each year is based on the fiscal year of each News Platform Operator. The figures include aggregate figures for multiple News Portals operated by the same company, and include approximate figures.

<sup>69</sup> The calculation is based on information from six of the seven companies that were prompted for information, excluding those that indicated that they do not use advertising income on News Portals that involves the payment of licensing fees as a source of payment for News Media Operators. The period

use advertising incomes obtained from News Portals as a source for paying license fees to News Media Operators. The ratio of the total amount of license fees paid to News Media Operators to the total advertising income for News Portals is shown in Figure 2-3-5.

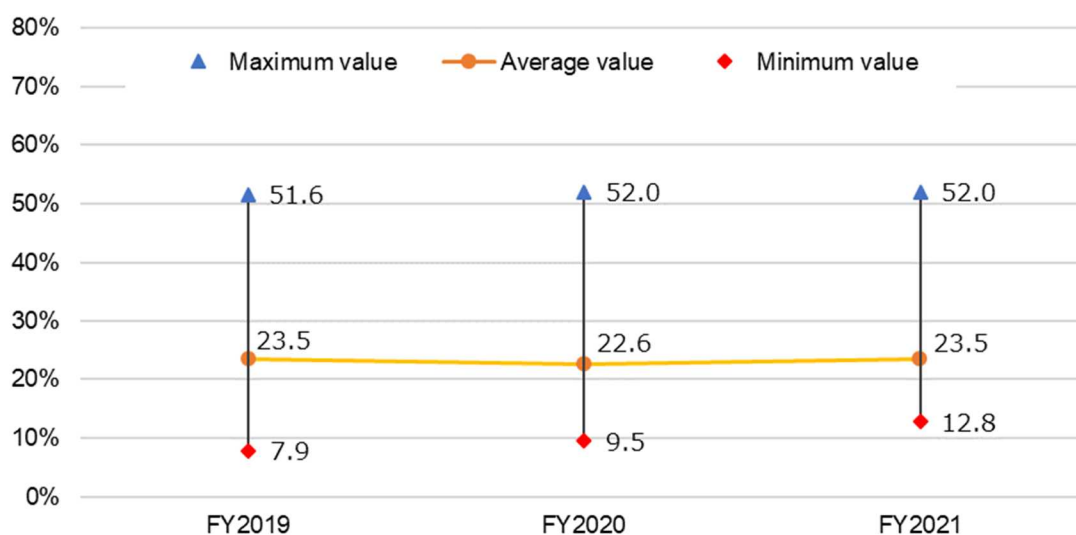
While variation can be seen among News Platform Operators, ranging from about 8% to about 50%, the average per News Portal Operator is trending flat at about 23% from FY 2019 to FY 2021.

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covered in each year is based on the fiscal year of each News Platform Operator (some companies changed their fiscal periods during the period shown in the figure). Figures for News Content licensed from individual news media are included. Figures include aggregate figures for multiple News Portals operated by a single company, and include approximate figures. In addition, the figures include amounts converted into Japanese yen according to the exchange rate of the corresponding year, which is calculated by the JFTC based on the "Exchange Rate (Tokyo Interbank Offered Rate) (Monthly) Tokyo Market Dollar/Yen Spot at 17:00/Month-end" published by the Bank of Japan, after receiving submissions in US dollar units from the operators.

([https://www.stat-search.boj.or.jp/ssi/mtshtml/fm08\\_m\\_1.html](https://www.stat-search.boj.or.jp/ssi/mtshtml/fm08_m_1.html)).

Figure 2-3-5 Percentage of total licensing fee payments to total advertising revenues on News Portals<sup>70</sup>



With regard to the profit that News Portal Operators can gain from the use of News Content, according to the News Media Survey, etc., it was pointed out that News Content licensed by News Portal Operators should contribute to the revenues of News Portal Operators in various ways, including not only advertising fee income from digital advertisements displayed in conjunction with News Content, but also the effect of attracting customers to a News Portal as a gateway to send consumers to other services operated by a News Portal Operator (e.g., online malls), and that these contributions should also be reflected in the licensing fees.

In contrast, the News Platform Responses indicated that the qualitative contributions of operating a News Portal to the overall profitability of a News Platform Operator's business include the improvement of the company's overall recognition and brand image through the operation of a highly public information distribution venue, the improvement of the company's overall technical capabilities to accurately respond to consumers' information needs, and the

<sup>70</sup> The maximum and minimum values in Figure 2-3-5 do not necessarily mean that the corresponding operator is the same as the operator in Figure 2-3-1. The scope of "advertising income on News Portals" may vary depending on the type of business of each News Platform.

improvement of the company's overall consumer convenience through the provision of opportunities to use each of the services offered. Although, some pointed out that News Portals do not make a significant contribution to revenue, and that it is difficult to quantitatively evaluate the contribution of a News Portal alone in terms of various company services.

### C. News Media Operators' perception of the negotiation process, contract details, etc., and the status of renegotiations

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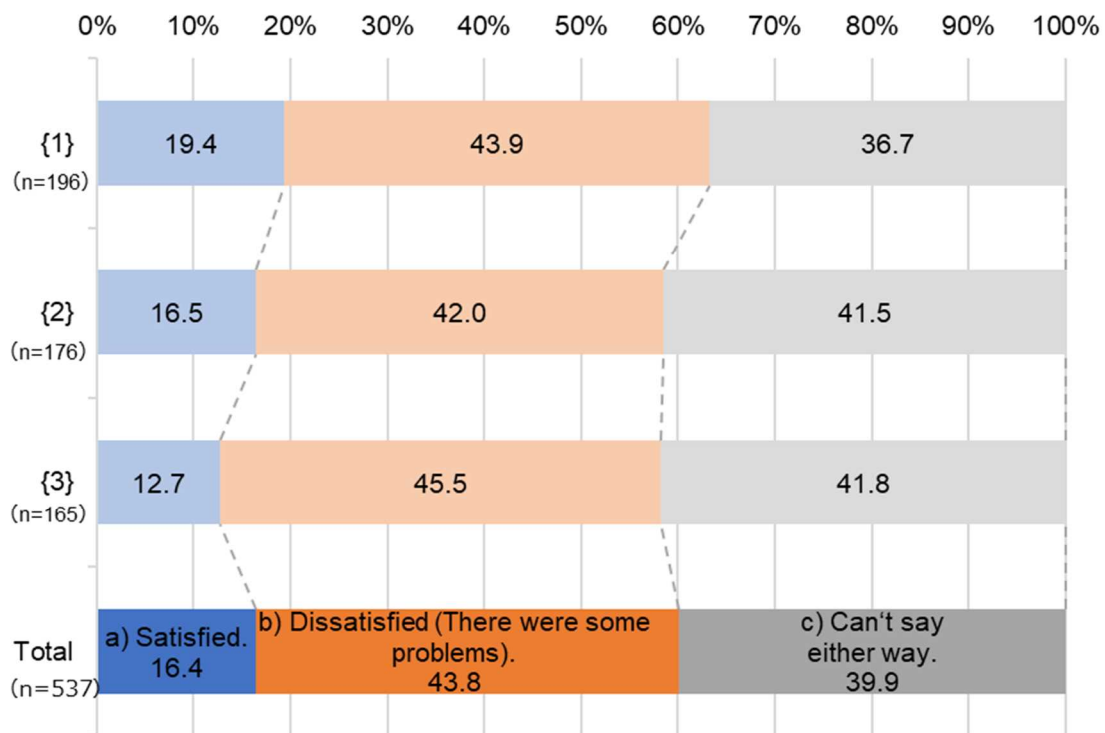
#### (A) Perception at time of contract conclusion

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According to the News Media Survey, for each News Media Operator, the percentage that was "satisfied," "dissatisfied (There were some problems)," or "can't say either way" with regard to the license fees set forth in the contract with: {1} the News Portal Operator from which the highest license fee income was gained for the last fiscal year; {2} the News Portal Operator that provided the second highest; and {3} the News Portal Operator that provided the third highest, respectively, are shown in Figure 2-3-6.

Although the percentages vary depending on the size of the transaction amount and the party with which a contract was concluded, 43.9% of News Media Operators said in regard to the News Portal Operator with the largest transaction amount ({1}) and 43.8% of News Media Operators said in regard to News Portal Operators with the top three transaction amounts ({1} through {3} combined) that they were "dissatisfied (There were some problems)" (Option b).

Figure 2-3-6 Perception at time of signing contract related to license fees

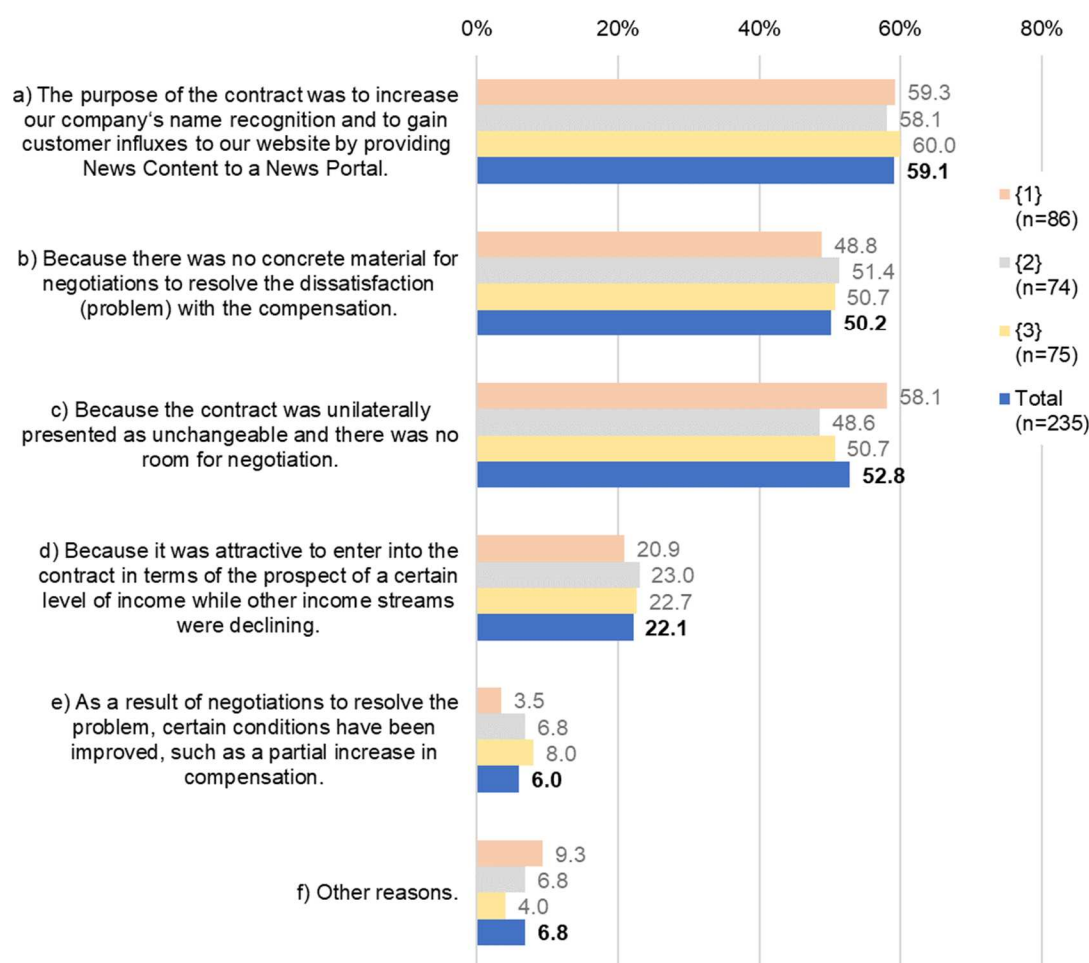


In the News Media Survey, News Media Operators who responded that they were "dissatisfied (There were some problems)" with license fees were asked why they signed the contract even though they were dissatisfied.<sup>71</sup> The results are shown in Figure 2-3-7.

Looking at the total of the results for the top three in terms of transaction amount, 59.1% of the respondents answered that the purpose was to obtain compensation other than license fees such as a customer influx to their own News Media Site (Option a), and 50.2% answered that there was no specific material to negotiate (Option b), with a high percentage of the respondents citing circumstances on the part of the News Media Operator. On the other hand, a similarly high percentage of respondents (52.8%) cited the negotiating stance of the News Portal Operator as the reason, saying that the contract was unilaterally presented as unchangeable and there was no room for negotiation (Option c).

<sup>71</sup> Multiple responses were allowed for this question.

Figure 2-3-7 Reasons for concluding contracts despite dissatisfaction with license fees



### (B) Perception after conclusion of contract

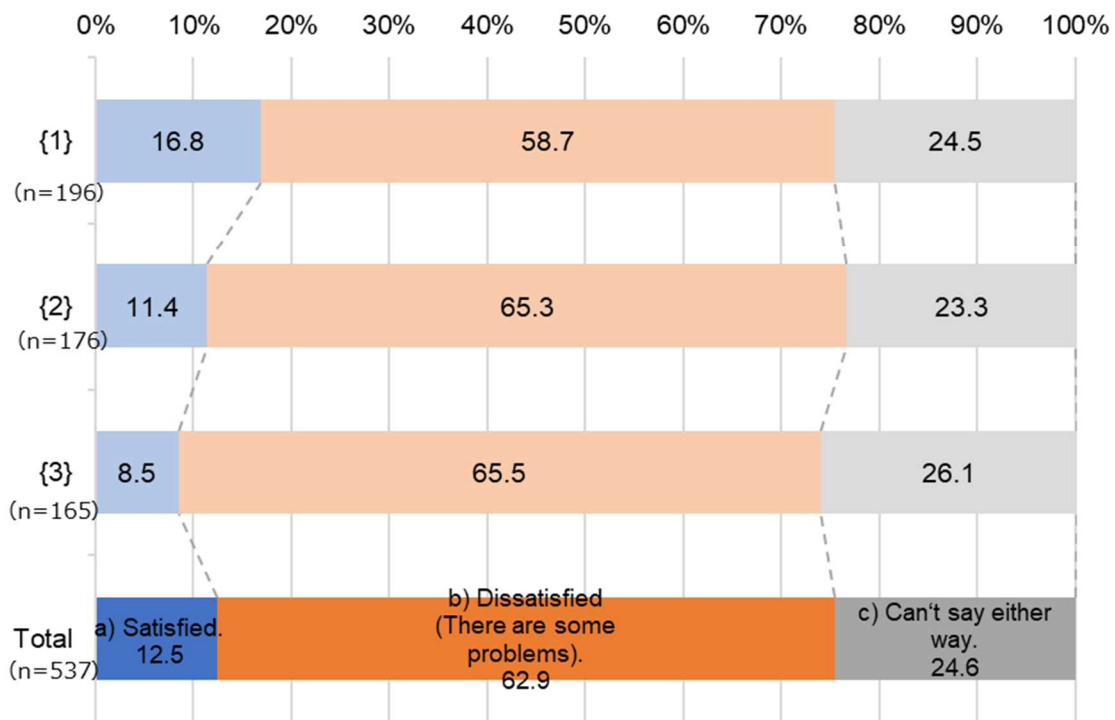
According to the News Media Survey, the percentage of News Media Operators that are currently "satisfied," "dissatisfied (There are some problems)," or "can't say either way" with regard to licensing fees set in their contracts with News Portal Operators is as shown in Figure 2-3-8.

Compared to the perception at the time of the conclusion of contract described in (A) above, the percentage of "can't say either way" responses decreased from 36.7% to 24.5% for News Portal Operators with the largest transaction amount ({1}), while the percentage of "dissatisfied(There are some problems)" responses increased significantly from 43.9% to 58.7%. As for the total of the responses for the top three players in terms of transaction amount, the percentage



of "undecided" responses decreased from 39.9% to 24.6%, while the percentage of "dissatisfied (There are some problems)" responses increased significantly from 43.8% to 62.9%.

Figure 2-3-8 Current perceptions of license fees



News Media Operators that responded with the answer "dissatisfied (There are some problems)" with licensing fees in the News Media Survey were asked about the nature of their dissatisfaction (problem), as shown in Figure 2-3-9.

Looking at the total number of responses for the top three in terms of transaction value, the majority of respondents cited the low level of license fees (Option a) (86.4%) and unclear calculation standards (calculation methods) for license fees (Option b) (70.1%) as reasons for their dissatisfaction (problem). In addition, 12.1% of respondents answered that the manner in which News Content is used in News Portals changes after a contract is concluded and that these changes are not reflected in the license fee despite it being disadvantageous to News Media Operators (Option e), and that the calculation standard of the license fee has been changed unilaterally (Option c) (6.2%).

Furthermore, News Media Operators that responded with the

answer "dissatisfied (There are some problems)" with license fees (see Figure 2-3-8) were asked about the information they would need as bargaining chips when re-negotiating to resolve their dissatisfaction (problem) in the future (see Figure 2-3-10).

The majority of respondents cited the total amount of sales from all news content pages that they licensed<sup>72</sup> (Details Page) (Option d) (59.4%), a reasonably high percentage of respondents also cited the total amount of sales from all News Content pages (Details Page) on the News Portal (Option f) (48.6%) as well as the total amount of compensation paid by News Portal Operators to all News Content providers for the provision of News Content (Option k) (44.9%). In addition, certain respondents selected the amount of sales obtained for each News Content page (Details Page) that has been licensed (Option e) (34.1%), and the total amount of sales obtained from all pages where news content is used on the news portal (Top Page, Intermediate Pages, and News Content pages (Details Pages)) (Option g) (24.6%).

Interviews with News Media Operators and others indicated that this information is necessary for the following items.

- Considering digital advertising income from the use of News Content, even for PV that is not included in the calculation basis when determining the level of license fees, because News Portal Operators receive digital advertising income while only a part of the PVs for News Content webpages is used as the basis for calculating the license fee.
- Verifying that the license fees paid to a company are appropriate.

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<sup>72</sup> In the News Media Survey, it is referred to as the page on which the full text of News Content licensed to News Portals by News Media Operators is displayed (the Details Page, sometimes referred to as the "Final Page" in the News Media Survey).

Figure 2-3-9 Current dissatisfaction (problem)

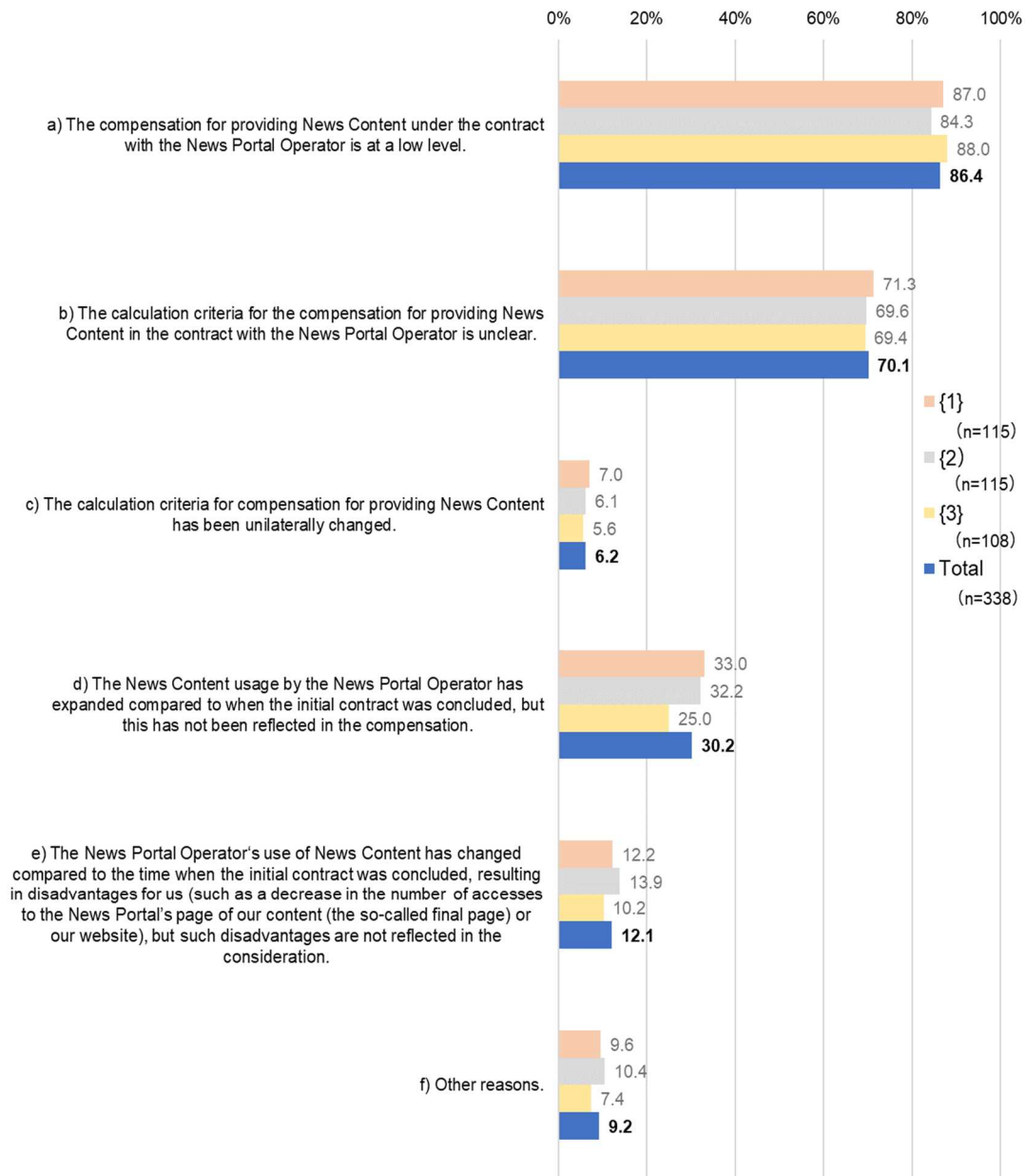
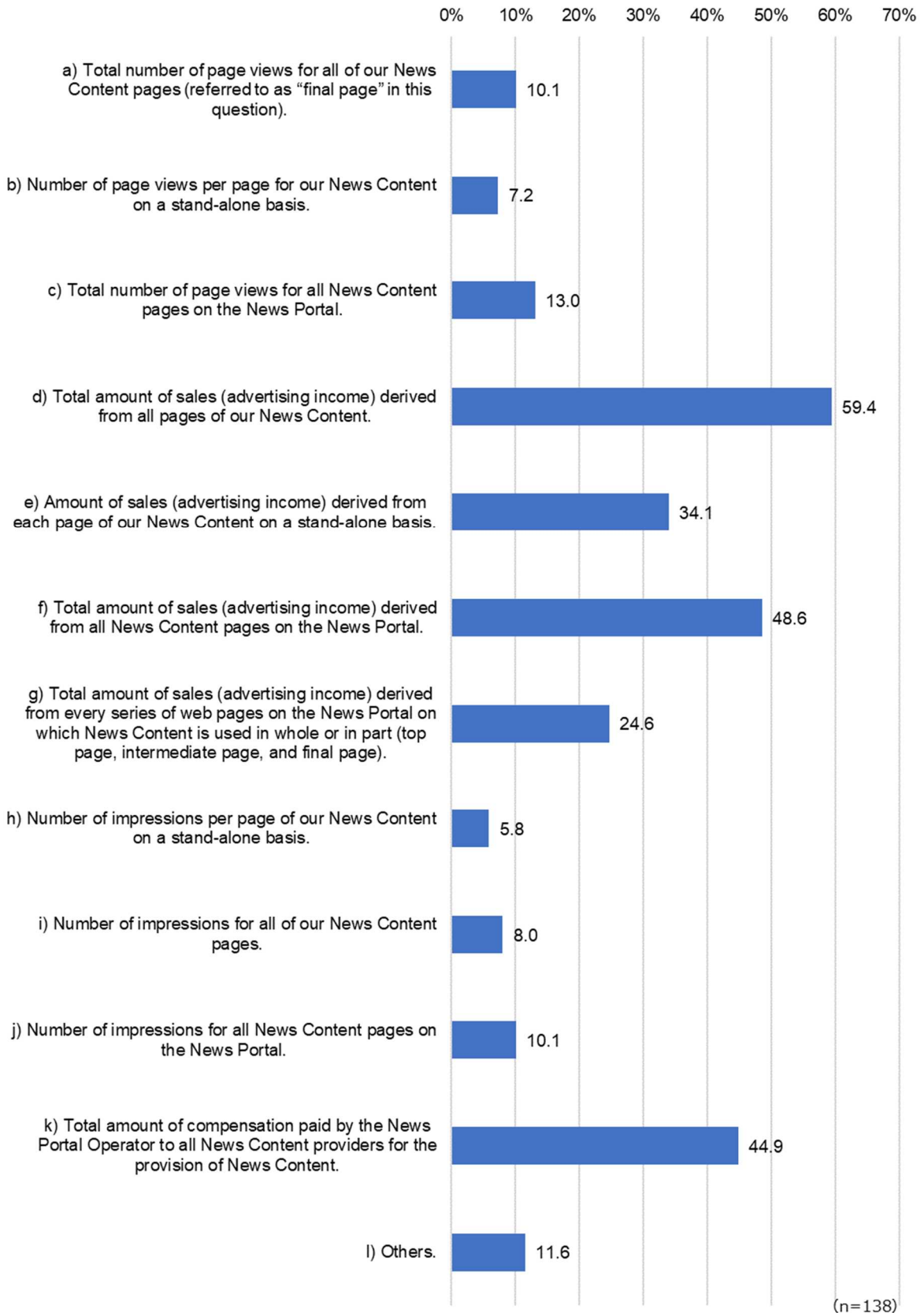


Figure 2-3-10 Information needed as bargaining chips



The following points were made in interviews with News Media Operators regarding the reasons why they are dissatisfied (problems) with the level of license fees after signing a contract.

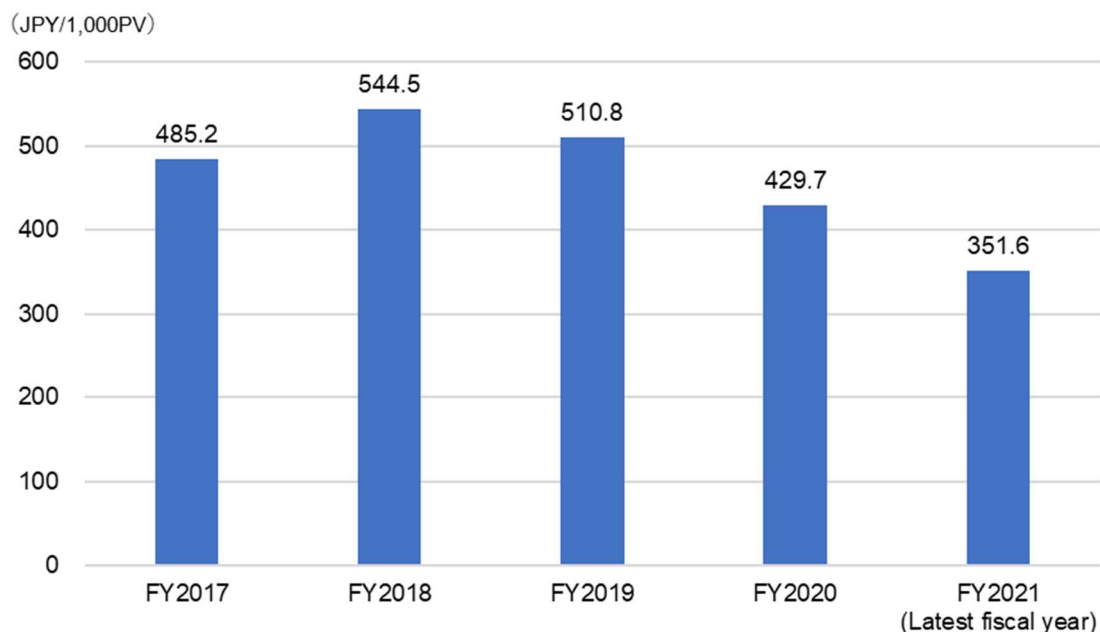
- At the time of the conclusion of the contract, there was no knowledge on the standard level of license fees for licensing News Content as electronic data, or knowledge on the revenue generated by the use of News Content by the News Portal Operator that a contract has been concluded with. However, after the conclusion of the contract, the News Media Operator became aware of new information, such as the level of license fees for licenses with other News Portal Operators and the unit price of digital advertising through News Media Sites, and came to believe that the license fees were not appropriate.
- The number of users of the News Media Site has increased since the signing of the original contract, and level of recognition among consumers has improved (in other words, the brand value of the media has increased), resulting in a divergence between the value of the media and the level of license fees.
- Despite changes in the distribution structure of News Content and the business environment in which News Media Operators operate, the terms of the license fee have not been changed for a long period of time since the conclusion of the original contract, and the cost of news coverage is no longer recoverable.

According to News Media Responses, Figure 2-3-11<sup>73</sup> shows the trend of the unit advertising cost per 1,000 PV for digital advertisements displayed along with News Content on News Media Sites, and in the most recent fiscal year (FY2021), the average unit advertising cost per 1,000 PV was approximately ¥352.

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<sup>73</sup> The JFTC calculated the advertising unit price per 1,000 PV based on information from 14 companies of the 20 companies that were requested information, that maintained data pertaining to sales of programmatic advertising and the number of PVs on News Media Site for the period from FY 2017 to FY 2021.

Figure 2-3-11. Advertising cost per 1,000 PV on News Media Sites



### (C) Status of renegotiation after conclusion of contract

News Media Operators that responded with the answer "dissatisfied (There are some problems)" with licensing fees from News Portals in the questionnaire survey for Figure 2-3-8 above were asked whether they have tried to re-negotiate to resolve their dissatisfaction (problem), and their responses are shown in Figure 2-3-12.

Only 24.0% of respondents indicated that they have tried to re-negotiate, and a majority of News Media Operators (76.0%) indicated that they have not.

News Media Operators who indicated that they had tried to re-negotiate were asked about the results of their negotiations, and their responses are shown in Figure 2-3-13. <sup>74</sup>

A large number of respondents (51.1%) indicated that the News Portal Operator agreed to re-negotiate, but the contract was not changed (Option c), and a reasonable number (31.9%) indicated that the News Portal Operator did not agree to re-negotiate (Option a), and so the majority of respondents indicated that negotiations were not

<sup>74</sup> In the questionnaire pertaining to Figure 2-3-13, the total response rate for each option does not add up to 100% because the survey asked for responses regarding the results of negotiations with respect to multiple operators who are entered into a News Content License Agreement (up to three companies).

successful. On the other hand, a certain number of the respondents (34.0%) answered that the contract was improved as a result of negotiations.

Figure 2-3-12: Whether or not re-negotiation offer is made to resolve dissatisfaction (problems)

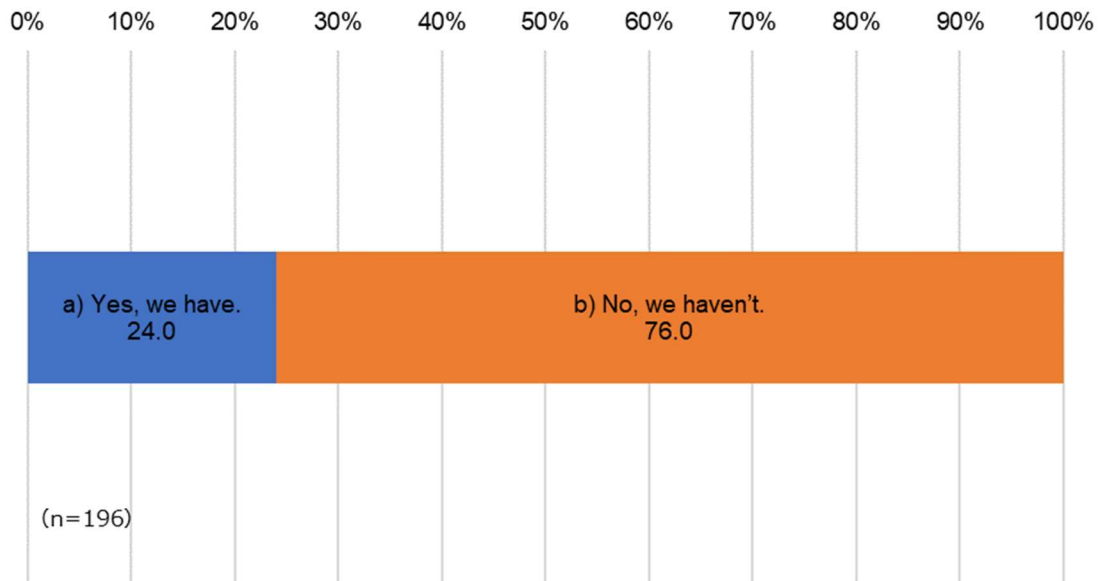
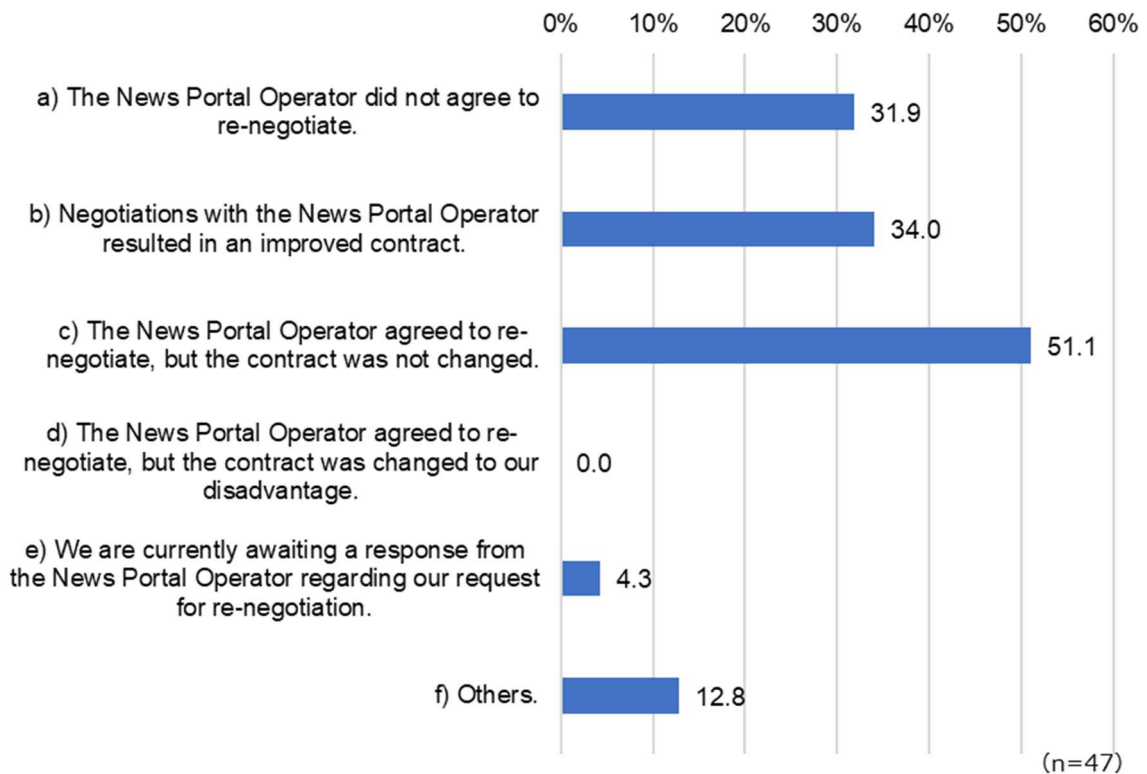


Figure 2-3-13 Results of re-negotiations to resolve dissatisfaction (problems)



**D Response to the use of News Content by News Portal Operators that do not have authorization.**

Figure 2-3-14 shows the results of the News Media Survey, in which respondents were asked about their experience of News Content being used by News Portal Operators that do not have a license.

Of these, those News Media Operators who responded that they have had this kind of experience were asked how they handled the situation, as shown in Figure 2-3-15. The majority of the respondents (63.3%) answered that they did not specifically request to enter into a contract (Option d). As for the reason why they did not request this, several News Media Operators indicated that they responded by requesting the deletion of the News Content because it was being used by a News Portal that they did not wish to have content published on.

In addition, a certain number of respondents (17.7%) indicated that negotiations resulted in the conclusion of a contract for the use of News Content (Option a), and 11.4% indicated that negotiations did not result in the conclusion of a contract (Option c).



Figure 2-3-14. Experience of unlicensed use of News Content

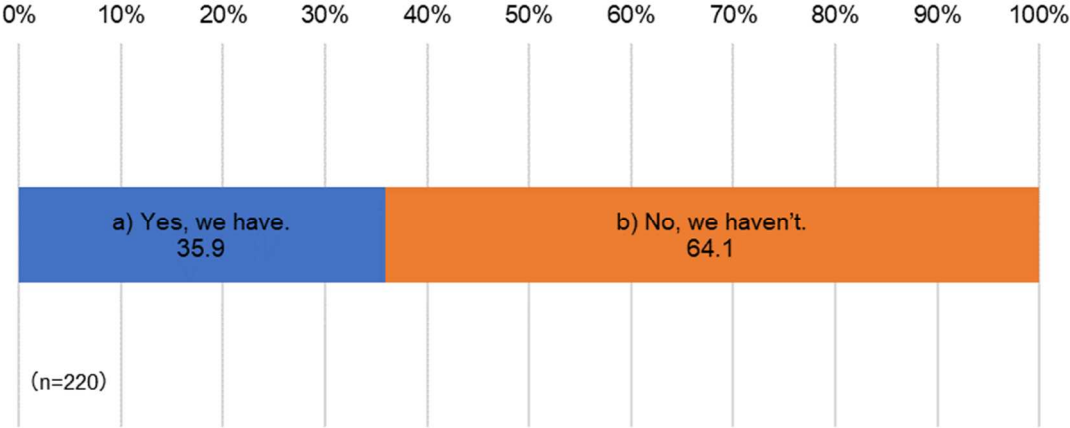
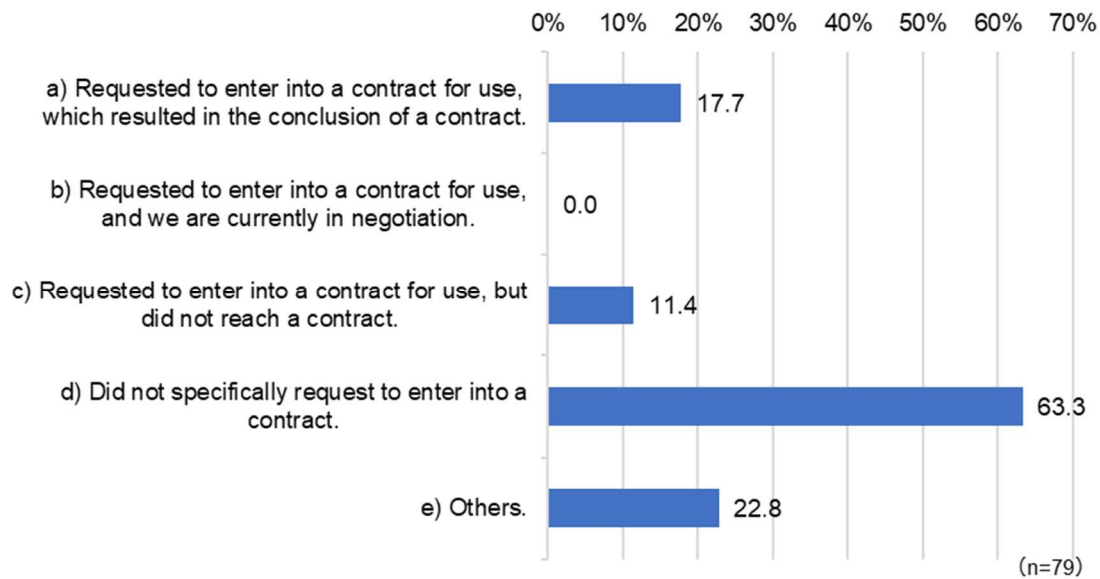


Figure 2-3-15 Results of responses to unlicensed use



## E. Use of canonical tags by News Portal Operators

### (A) Canonical tag standards and functions

#### a. Canonical tag standards

The Internet Engineering Task Force (IETF), a standards organization for Internet technologies, specifies in its standards document<sup>75</sup> that canonical tags specify which web pages have priority over duplicate content resources. The specification of priority relationships between web pages is done by identifying the canonical web page (the main web page) amongst duplicate web pages (inferior web pages in Internet Searches).<sup>76</sup>

#### b. Function of canonical tags

The canonical tag is used to specify which web page is given priority when there are multiple web pages with the same content, for example, when the same News Content is posted on a special page featuring the Olympics as on a regular web page.

In Google search, pages containing duplicate content are considered duplicate versions of the same page, and one of the

<sup>75</sup> "The Canonical Link Relation" (IETF) (April 2012). (<https://datatracker.ietf.org/doc/rfc6596/>)

<sup>76</sup> Specifically, when creating a web page, the following statements should be added in the code.  
`<link rel="canonical" href="(canonical web page URL)">`

URLs is selected as the "canonical" version to be crawled<sup>77</sup> more frequently, while all other URLs are considered "duplicate" URLs and crawled less frequently. Google search uses the page selected as the canonical version as the "primary source for Google to evaluate content and quality" and this page appears in search results.<sup>78</sup>

The canonical tag is a mechanism that allows the administrator of a web page to influence the selection of the canonical version in the Google search process. By using the canonical tag, web page administrators can specify which of multiple duplicate web pages they want to be judged as the canonical version.

## (B) Impact on Internet Search Results.

### a. Concerns from News Media Operators

The following concerns have been raised by News Media Operators regarding the effect of canonical tags.

- News Portals may contain the same News Content that News Media Operators distribute on their own News Media Sites. One News Portal Operator installed a canonical tag that made the pages of News Content on its own News Portal the canonical version from November 2019, and since then, the number of visitors (customer influx) from Google search results to the News Media Sites that publish the same News Content on their News Portal has decreased. We speculate that this decrease was caused by the fact that the placement of the canonical tags by the News Portal Operator made it difficult for the pages of News Media Sites that carried the same News Content to be displayed in Google search results.

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<sup>77</sup> "Crawl" means that an automated program called a crawler and used by Google visits webpages by following links in order to build a database (index) that has the purpose of facilitating the reflection of the content (text, images, videos, etc.) on a web page and its changes to Google search results. (See "How Google's search engine works, search results and rankings")

(<https://developers.google.com/search/docs/fundamentals/how-search-works?hl=ja>).

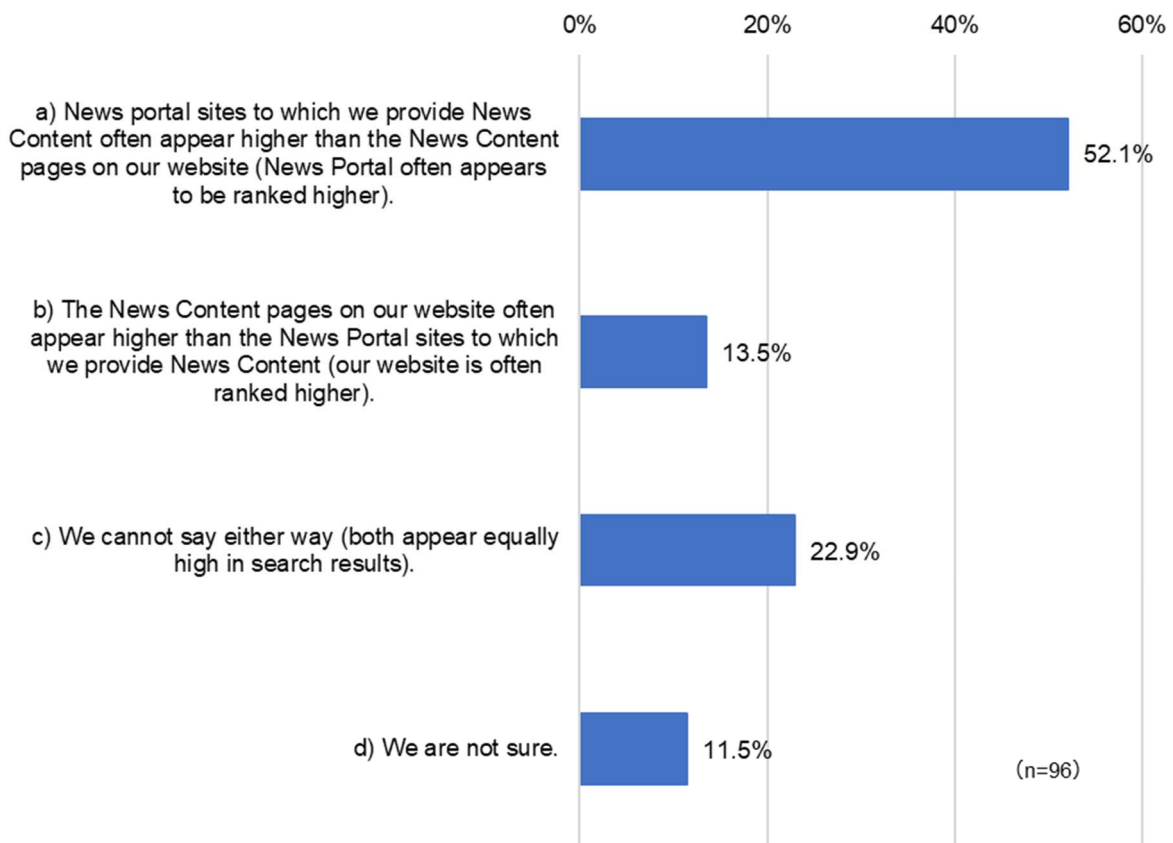
<sup>78</sup> Normalization of Duplicate Page URLs and Use of Canonical Tags"

(<https://developers.google.com/search/docs/crawling-indexing/consolidate-duplicate-urls?hl=ja>)

Such concerns about canonical tags were raised in the Digital Advertising Report<sup>79</sup>, and although discussions have taken place between News Portal Operators and some News Media Operators since the report was published, the concerns of the latter have yet to be resolved.

In the News Media Survey, regarding the question on the current status of rankings in Internet Search Results related to canonical tags, the majority of respondents answered that News Portal sites to which News Media Operators have licensed their News Content for use are often ranked higher than their own News Media Sites (Figure 2-3-16).

Figure 2-3-16 Perceptions of current search rankings by News Media Operators



#### b. Answer from News Portal Operators

A News Portal Operator, which was the subject of the matter

<sup>79</sup> Digital Advertising Report Chapter 4.2(2)b(a) (p.136).

pointed out in “a.” above, states that the canonical tag standard in “(A)a.” above is interpreted so that the use of canonical tags, as indicated in international technical standard documents, is to indicate whether a webpage is canonical or a duplicate between two web pages identified by individual canonical tags. In addition, the News Portal Operator states that in documents published online by Internet Search Operator that provides a search engine to the News Portal Operators, canonical tags are used by the search engine to identify pages within the same website that appear to contain the same content, if more than one page is found on the same website. The News Portal Operator further explained that, in light of the technical standards for canonical tags and documents published by the search engine provider, canonical tags are not usually used to designate a web page on an operator’s website as canonical compared to a web page on another company’s website, except in cases where the web page on the operator’s own website designates a web page on another website as the canonical version.

### c. Google's explanation on the impact of canonical tags

The items that we asked Google to look into and their response follows.

Google states that the use of canonical tags on a website to legitimize pages within that website does not affect the relative position (ranking) of that website versus other websites in Internet Search Results. Google also states that this is applied to both Google search and Yahoo! search<sup>80</sup>, which also uses Google’s search engine<sup>81</sup>.

[Question from the JFTC]

In a situation where the same type of News Content is posted on Page A of Website A and Page B of Website B, because the operator of Website A posts News Content on Website A that has

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<sup>80</sup> “Re: Yahoo Japan Corporation to Receive Search Engine and Other Technologies from Google Inc.” (released December 2, 2010)

([https://www.jftc.go.jp/dk/soudanjirei/h23/h22nendomokuji/h22nendohajimeni\\_files/10120202.pdf](https://www.jftc.go.jp/dk/soudanjirei/h23/h22nendomokuji/h22nendohajimeni_files/10120202.pdf))

<sup>81</sup> Since the search engine provided by Google is also used in Yahoo! Search, it is assumed that if the canonical tags have an effect on Google Search, the same effect will also occur in Yahoo! Search.

been licensed for use by the operator of Website B and canonical tags are used as described in i) through iii) below, please indicate whether or not there is any impact on the relative positions (rankings) of Page A and Page B in the search results, and if there is, the details of such impact.

i) If only the operator of Website A places a canonical tag on its website that designates Page A as the legitimate page

ii) If only the operator of Website B places a canonical tag on its website that designates Page B as the legitimate page

iii) When the operators of both A and B websites place canonical tags on their websites that designate Page A and Page B as the legitimate page, respectively.

If Google search or Yahoo! Search are differently impacted, please provide details for each one.

[Google's answer].

As explained in Google Search Central<sup>82</sup>, Google search uses canonical labels as a signal to determine which of several pages with identical content on the same website to treat as canonical.

Other factors include whether the page is served over HTTP or HTTPS, the quality of the page, and whether its URL is listed in the sitemap. Legitimate pages are crawled more frequently than duplicate pages, and in many cases, but not always, the legitimate page will appear in the search results rather than the duplicate.

Understanding a page as legitimate is usually done only for duplicate pages within the same website. Website operators have an incentive to take steps to improve their search ranking relative to competing websites. If the use of the canonical tag causes a website to rank higher than other websites that do not use the tag, then each website will begin to use the canonical tag for the purpose of ranking all of its pages. This would prevent the necessary function of identifying the single best page from duplicate pages or URLs. The above questions are all examples of

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<sup>82</sup> This refers to a website operated by Google for the purpose of providing support tools to ensure that content is displayed to appropriate users.

(<https://developers.google.com/search/docs/crawling-indexing/consolidate-duplicate-urls?hl=ja>)

a site operator marking a page on their website as canonical, but for the reasons stated above, the relative rankings of website A and website B would not be affected in these cases.

The exception to this is that a website could have a beneficial impact on another website by setting a webpage on that website as legitimate.

There is no difference between Google searches and Yahoo! searches in terms of the presence or absence of the above effects or their contents.

\* Underlining added by the JFTC.

#### d. Trends in the volume of traffic to each website from Internet Searches

Figure 2-3-17 shows the total volume of inflows from Google searches and Yahoo! searches to the websites of the 17 News Media Operators<sup>83</sup> from July 2019 to June 2020 according to the categories of newspapers, magazines, and broadcasting. Figure 2-3-17 shows the relative increase or decrease in the volume of inflows from the following month onward, using July 2019 as the base month.

Although not shown in Figure 2-3-17, the volume of inflows to News Portals, where concerns have been raised, showed a downward trend up to December 2019 and an upward trend between January 2020 and April 2020.<sup>84</sup>

Trends in the volume of traffic to News Media Operator websites showed an increasing trend from December 2019 to April 2020 for newspapers and broadcasters. For magazines, a decreasing trend was observed during the same period.

The trend of inflows since November 2019 for individual News Media Operators in the same category also varied from operator to operator, and no common trend across all operators was discernible.

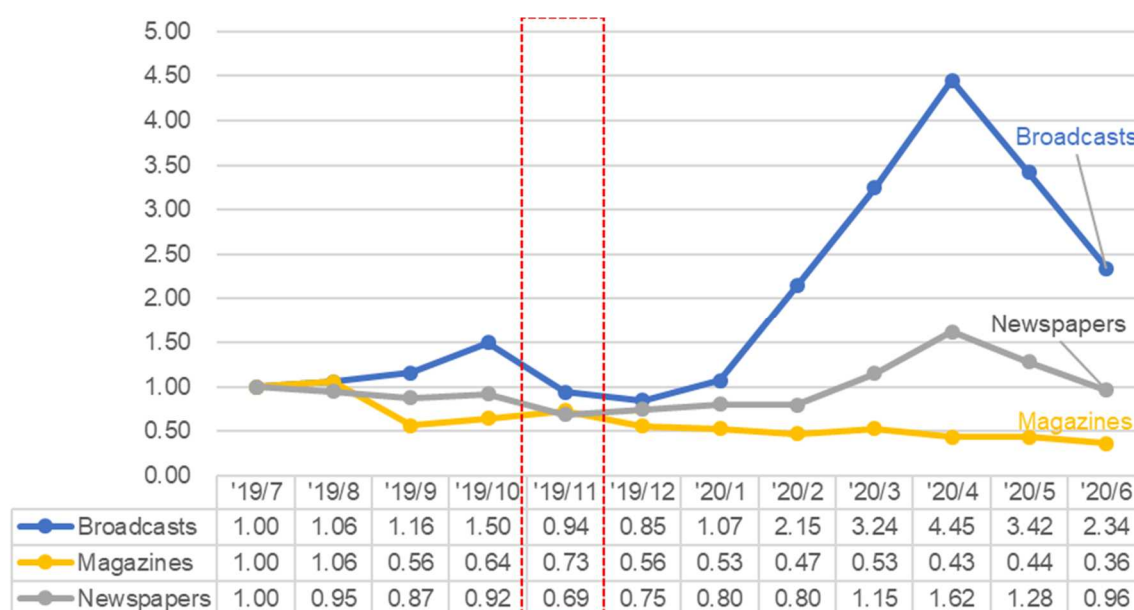
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<sup>83</sup> Calculated excluding three companies that answered that they did not retain figures on customer influx to News Media Sites from Internet Search for the period from July 2019 through June 2020 of the 20 companies that were requested information. The breakdown for each media outlet was seven newspapers, six magazines, and four broadcast companies.

<sup>84</sup> The News Portal Operator, regarding which concerns were pointed out, also provided information on the volume of inflows (figures on customer influx) to its News Portal, but this is not shown in Figure 2-3-17 because this is information from an individual company.

As described above, with regard to the volume of traffic from Internet Search Results to the websites of News Media Operators from November 2019, when News Portal Operators began using canonical tags, a consistent decline in the volume of traffic to those same websites was not in general observed.

Figure 2-3-17 Trends in the Volume of Influxes from Internet Searches per Business Type



## (2) Usage of News Content (snippets, etc.) in Internet Searches

### A. Contractual relationships with News Media Operators

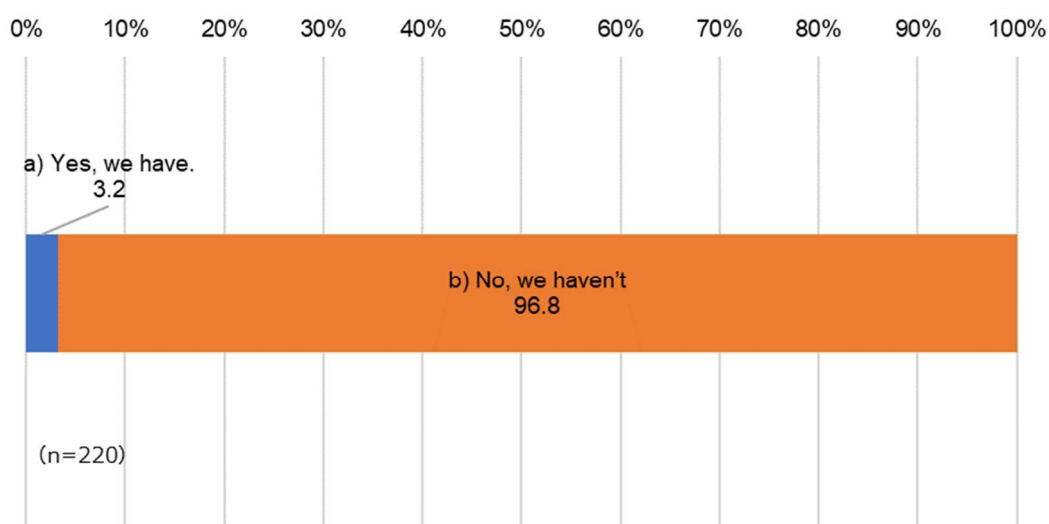
The results of the News Media Survey on whether or not News Media Operators had ever asked for a contract regarding the use of News Content by Internet Search Operators which they do not have a contractual relationship with are shown in Figure 2-3-18. 96.8% of News Media Operators responded that they have never asked for a contract. The results are shown in Figure 2-3-18. <sup>85</sup>

<sup>85</sup> News Media Operators that responded in the News Media Survey that they had sought to conclude a contract were asked about the results of their efforts, a few responded that they had concluded a contract. In Japan, the minor use of copyrighted works in Internet Search Results is subject to copyright restrictions (Article 47-5, Paragraph 1, Item 1 of the Copyright Act), and it is considered that in many cases, contracts for the use of News Content in this manner have not been concluded. Therefore, it is possible that the



In regard to the reasoning behind not asking Internet Search Operators to conclude a contract, in interviews with News Media Operators, it was pointed out that under the Copyright Law, minor use (snippets, etc.) of copyrighted works in the Internet Search Results of Internet Search Operators can be made without the permission of the copyright holder<sup>86</sup>, so News Media Operators cannot therefore demand compensation for such use. On the other hand, some News Media Operators pointed out<sup>87</sup> that sometimes the use of News Content in Internet Search Result may deviate from the scope of use that is not illegal under the Copyright Law.

Figure 2-3-18. Experience of requesting Internet Search Operators to enter into contracts



## B. Display in Internet Search Results

In the display of Internet Search Results, there are natural search results, which are the normal search results by search engines, and the News Frame, in which News Content selected by a different algorithm is displayed (1(3)B(B)a. above). For example, when News Content is displayed in the News Frame in the search results of Yahoo! News, only

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response "Yes" in Figure 2-3-18 is an incorrect response that refers to the conclusion of a contract for the use of content in News Portals.

<sup>86</sup> See Chapter 3.3 below for the provisions under the Copyright Act pertaining to the minor use of copyrighted works in Internet Searches.

<sup>87</sup> See Chapter 5.2(1) below for the specific points raised.

the News Contents on Yahoo! News are displayed.

As mentioned in 2(3) above, some News Platform Operators operate both News Portal and Internet Search services. With regard to Internet Search operated by such News Platform Operators, some News Media Operators have pointed out that the News Content on News Portal Operator's News Portal may be displayed in preference to the same on News Media Sites<sup>88</sup>.

In order to ascertain the facts related to the aforementioned point, we collected search results for specific word searches which were entered almost simultaneously in two different Internet Searches (Yahoo! Search and Google Search), and analyzed: (a) the status of the display of News Content by the News Frame in Yahoo!; and (b) whether and to what extent there were differences between the search results of two different Internet Searches.

This analysis was conducted by setting a program to automatically carry out searches using specific words, it then collects data pertaining to the search results, and extracts (scrapes) the results that meet certain conditions. The conditions used for the extraction of search results were set by the JFTC under the advice of experts in the field of Internet Search information scraping technologies. The Internet Search Operators of the Internet Search that were the subject of the evaluation were not involved in setting these conditions.

In (a), it was found that many search results display a News Frame that only displays News Content on Yahoo! News, and the News Frame tends to appear at the top of the search result screen. In (b), to the extent that this analysis was conducted, it did not result in a statistically significant difference between the two compared Internet Search Results, and therefore, it was not found that News Content on Yahoo! News is given priority in the display of natural search results in Yahoo! search <sup>89</sup>.

#### 4. Consumer Choice of News Content

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This section provides an overview of the factors that influence the choices

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<sup>88</sup> See Chapter 5.2(2) below for the specific points raised.

<sup>89</sup> See "Reference 2: Analysis of Self-Preferencing in Internet Search Results" at the end of this report for specific implementation items and results of (a) and (b).

of consumers in regard to News Content on News Platforms and their specific browsing behavior.

## (1) News Portals

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### A. Consumer selection criteria for News Content

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Consumers who use News Portal are likely to select News Content to view in full from among multiple News Content Headlines-etc., that are on display, based on various perspectives.

In the Consumer Survey, consumers were asked about the factors that influence their choice of News Content to read on News Portals<sup>90</sup>. The results are shown in Figure 2-4-1.

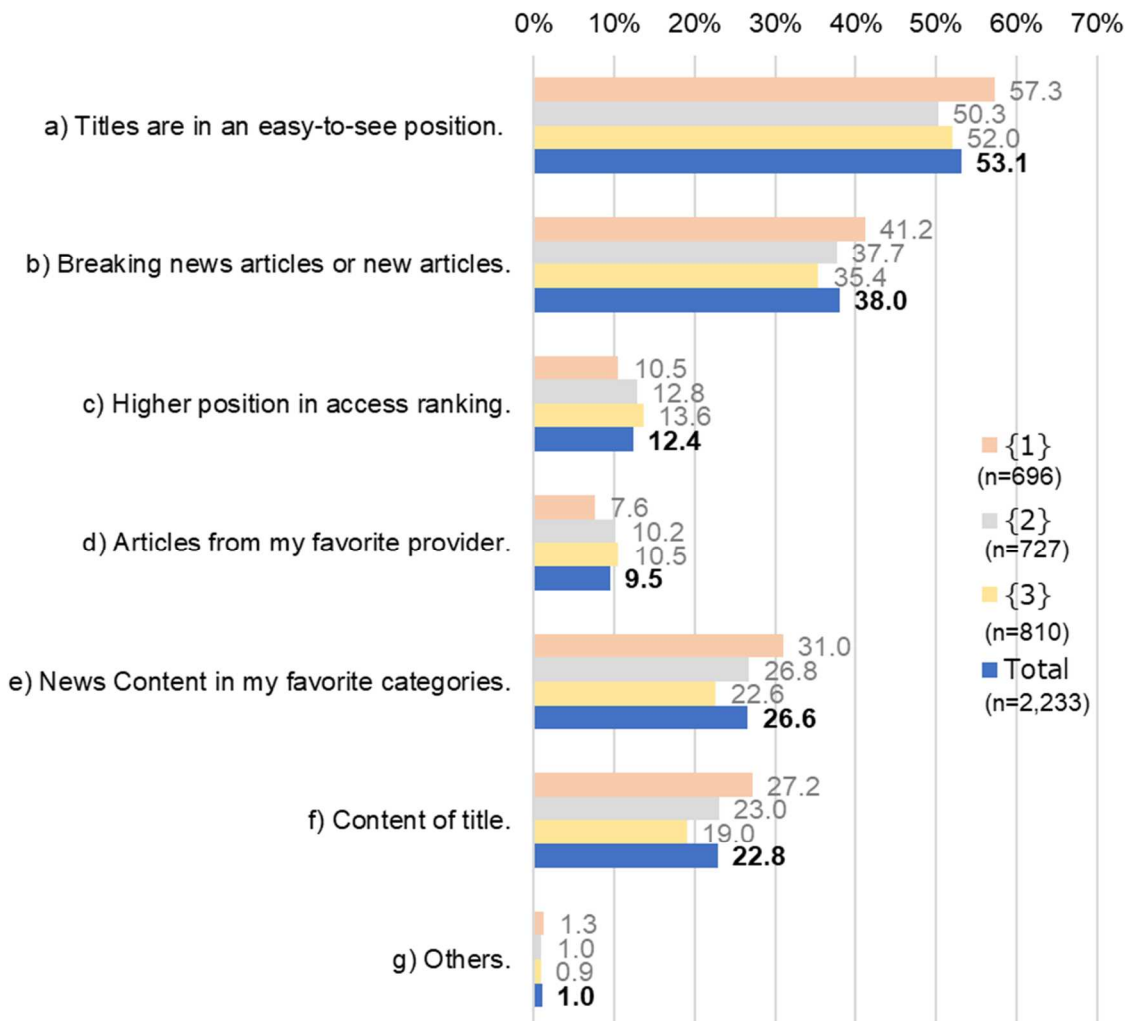
In total for all News Portals that are used, the highest percentage of respondents (53.1%) indicated that the titles were in an easy-to-see position (Option a), while the lowest percentage (9.5%) indicated that the articles were from their favorite provider (licensor) (Option d).

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<sup>90</sup> All of the questions about News Portals in the Consumer Survey, including this question, were regarding News Portals that are used at least three days a week.

In cases where there was more than one News Portal used for more than three days, respondents were requested to answer about (i) the most frequently used News Portal, (ii) the second most frequently used News Portal, and (iii) the third most frequently used News Portal.

Figure 2-4-1 Factors influencing News Content selection



### B. Consumer choices through the display of News Content

As described in 1(3)B(A)a above, News Portals mainly display only the headlines and thumbnails of News Content on the Top Page and do not display the full text of the News Content, and the links attached to the Headlines-etc., provide access to the Details Page where the full text of the News Content is posted. In addition to the above, Intermediate Pages that link from the Top Page and contain a part of the main body of the News Content and its commentary may be provided, and in such cases the Details Page is displayed for the first time by selecting the link on the Intermediate Page to display the full text of the

News Content (see Figures 2-1-12 to 2-1-14 above).

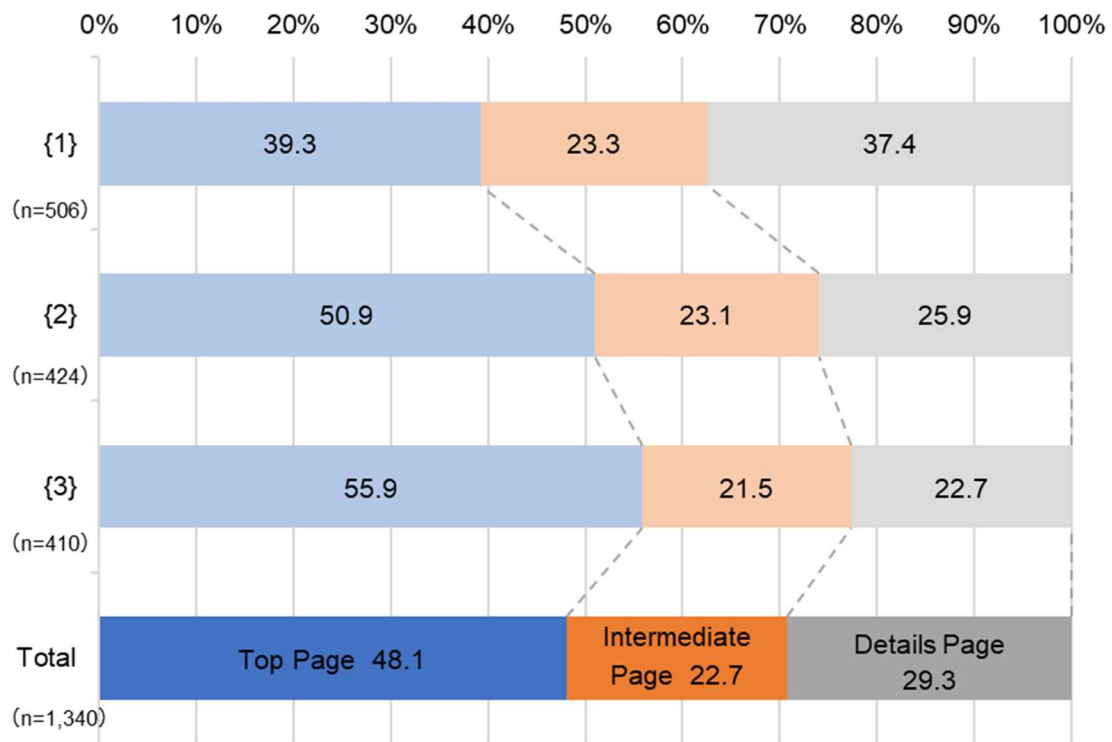
In the Consumer Survey, consumers were asked which pages they most often browse when the News Portal they use has a Top Page, Intermediate Page, and Details Page.<sup>91</sup> The results are shown in Figure 2-4-2.

Consumers who answered that they often only browse the Top Page were approximately 40% for the News Portal they most use ({1}), and nearly 50% for the total of the top three News Portals they use ({1} to {3}). Consumers who answered that they often browse up to the Intermediate Page represented just over 20% for both the News Portal they mostly use ({1}) and the total of the top three News Portals they use ({1} through {3}).

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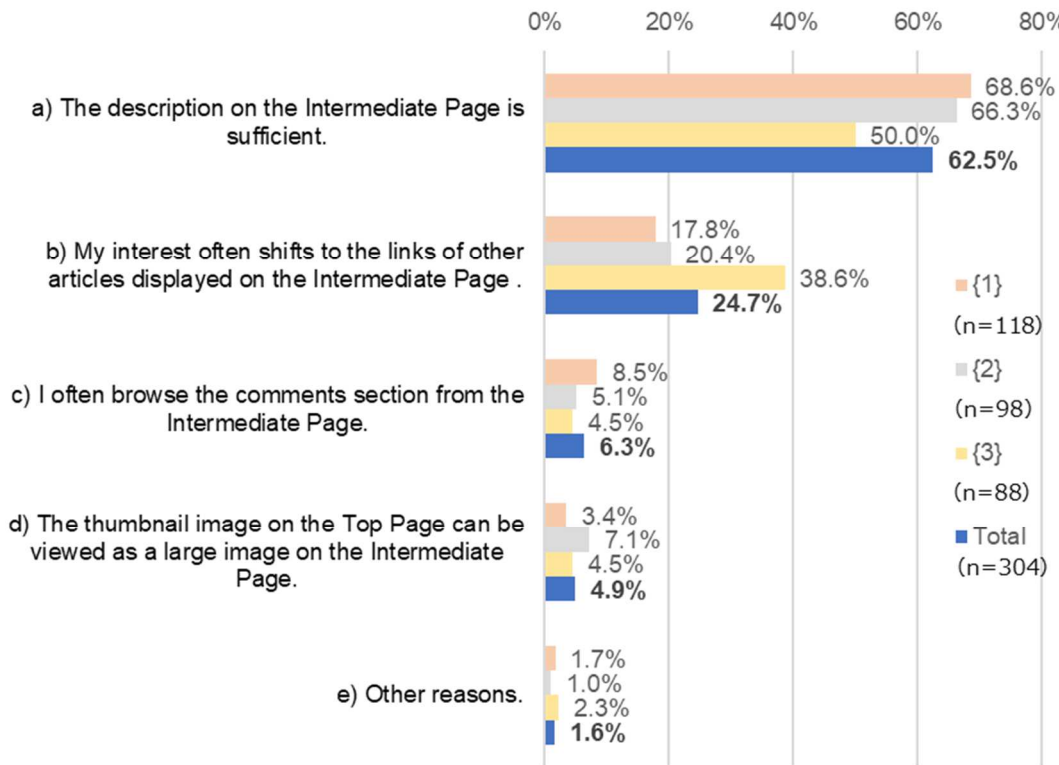
<sup>91</sup> Only those consumers who responded that they use Gunosy, dmenu News, News Pass, Yahoo! News, Livedoor News, LINE NEWS, and Rakuten Infoseek News with an Intermediate Page were shown the relevant question. If there was more than one News Portal that they use, they were requested to answer for each portal.

Figure 2-4-2 Which pages are most frequently browsed up to in News Portals



Consumers who answered that they often browse up to the Intermediate Page were asked why they do so. As shown in Figure 2-4-3, more than 60% of the respondents answered "the description on the Intermediate Page is sufficient" for each of the News Portal they most use ({1}) and the total of the top three News Portals they use ({1} through {3}).

Figure 2-4-3 Reasons why respondents often browse to Intermediate Page

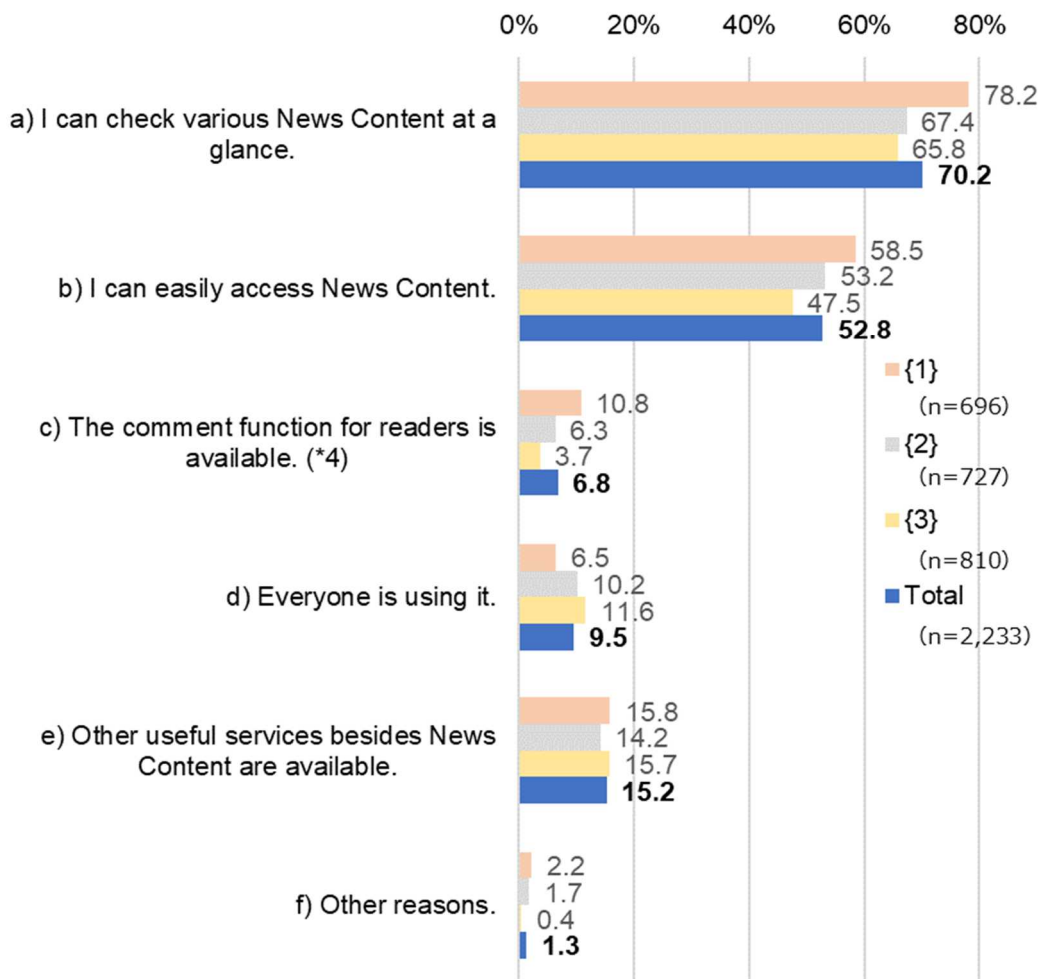


### C. Appeal of News Portals

In the Consumer Survey, consumers were asked for the reason they use News Portals, and Figure 2-4-4 shows the results.

The percentage of the respondents with the answer "a) I can check various News Content at a glance" was the highest at more than 70%, followed by answer "b) I can easily access News Content" with more than 50%, for each of the News Portal they most use ({1}) and the total of the top three News Portals they use ({1} through {3}).

Figure 2-4-4 Reasons for using News Portals



## (2) Internet Searches

### A. Important factors in consumer selection of News Content

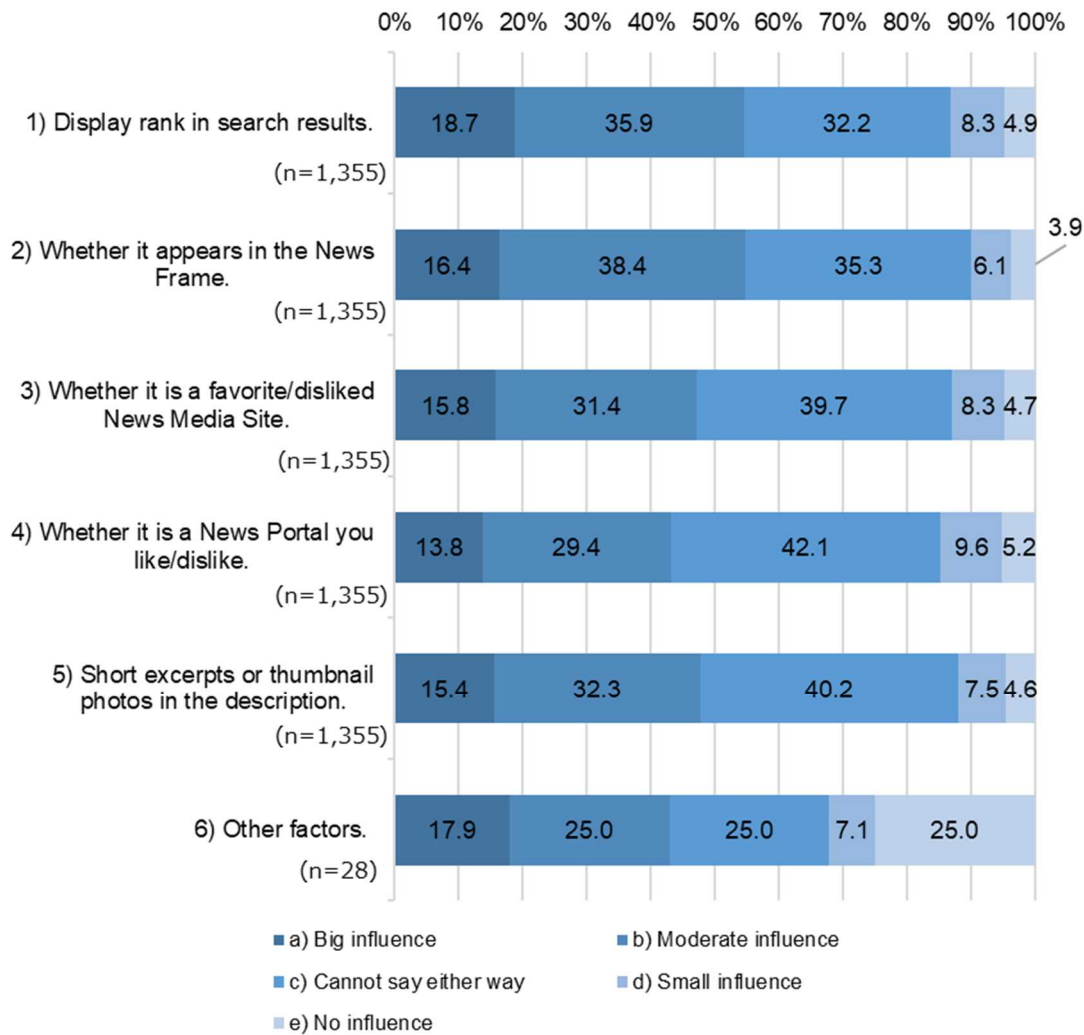
In Internet Searches, multiple links are displayed side by side in the search results when keywords are entered. Such search results are generally referred to as natural search results, but in some Internet Searches, a separate News Frame that combines multiple News Content in a single frame is displayed in an easily visible position at the top of the search results.

In the Consumer Survey, consumers were asked what factors influence their choice of News Content when using Internet Search to search for News Content. The factor with the highest response



percentage (54.8%) for the two answers of "a) Big influence" and "b) Moderate influence" was "2) Whether it appears in the News Frame." The factor with the second highest percentage was "1) Display rank in search results" (54.6%) (Figure 2-4-5).

Figure 2-4-5 Degree of influence on clicks by factor

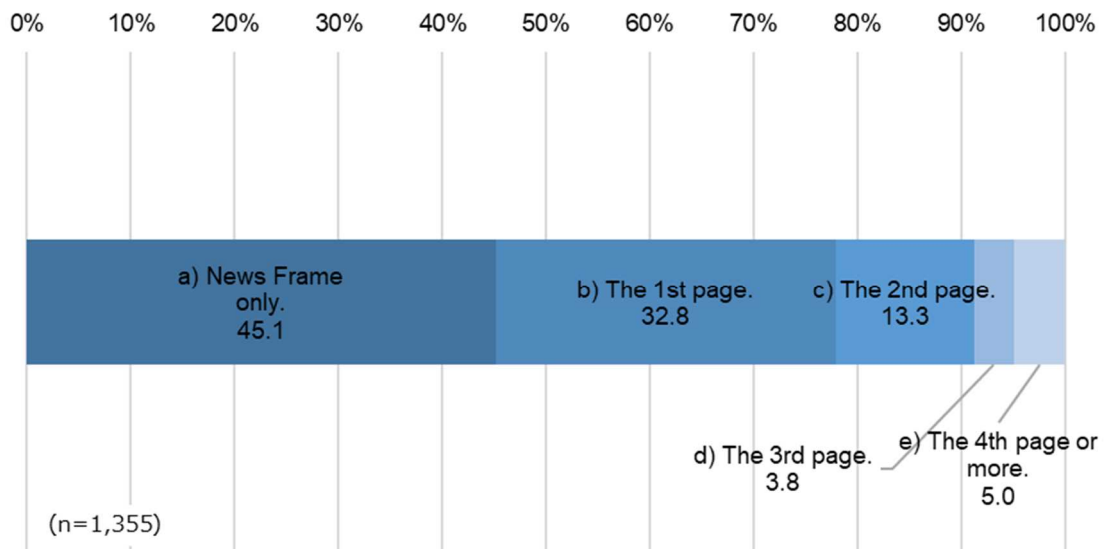


## B. The scope of Internet Search Results viewed by consumers

In the Consumer Survey, consumers were asked how many pages of search results they often browse up to when searching for News Content using Internet Search. About 50% of the respondents answered that they browse "a) News Frame only", and about 30% answered "b) The 1st page", while only about 10% browse up to the second page. Thus,

the results suggest that in most cases, News Content displayed on the first page of the search results, especially News Content displayed in the News Frame, is selected.

Figure 2-4-6 Pages consumers often check up to in Internet Searches



### C. Frequency with which consumers access linked News Media Sites

In the Consumer Survey, consumers were asked on their use of Internet Searches for finding News Content and whether they only browse the headlines, snippets, and thumbnails in the search results and do not access the linked News Media Sites. The results were as shown in Figure 2-4-7.

Consumers who answered "a) Yes, often" and "b) Sometimes" accounted for 26.5% and 54.3% respectively, with the sum of the two answers exceeding 80%.

These respondents (those who chose a) or b)) were then asked why they did not access the linked sites. As shown in Figure 2-4-8, 48.4% of consumers gave the answer "b) The search results show that the News Content is of no interest to me," this was followed by the next top answer of "a) The search results give me a general understanding of News Content" (45.2%).

Figure 2-4-7 Frequency of not accessing linked websites

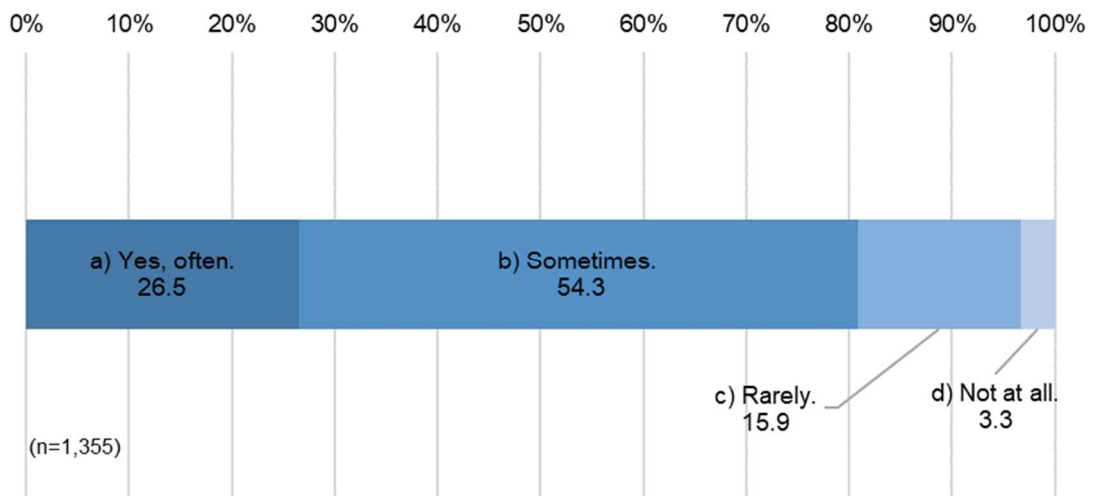
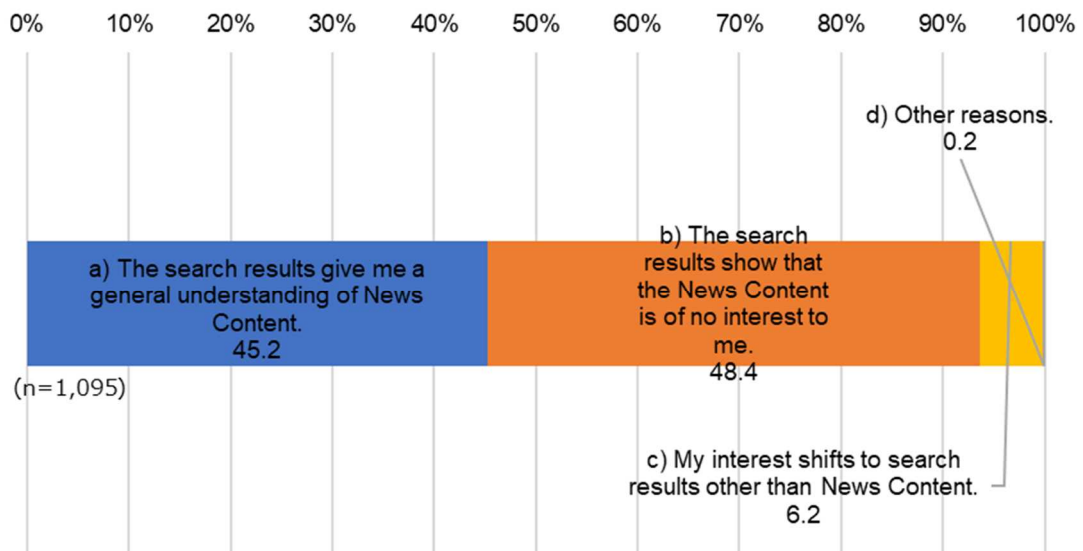


Figure 2-4-8 Reasons for not accessing linked websites



## Chapter 3. Market Characteristics for News Content Distribution

Due to changes in consumer behavior and the distribution structure related to the use of News Content, the business strategies of News Media Operators places importance on News Content distribution mediated by News Platforms (see Chapter 2.1(5) above).

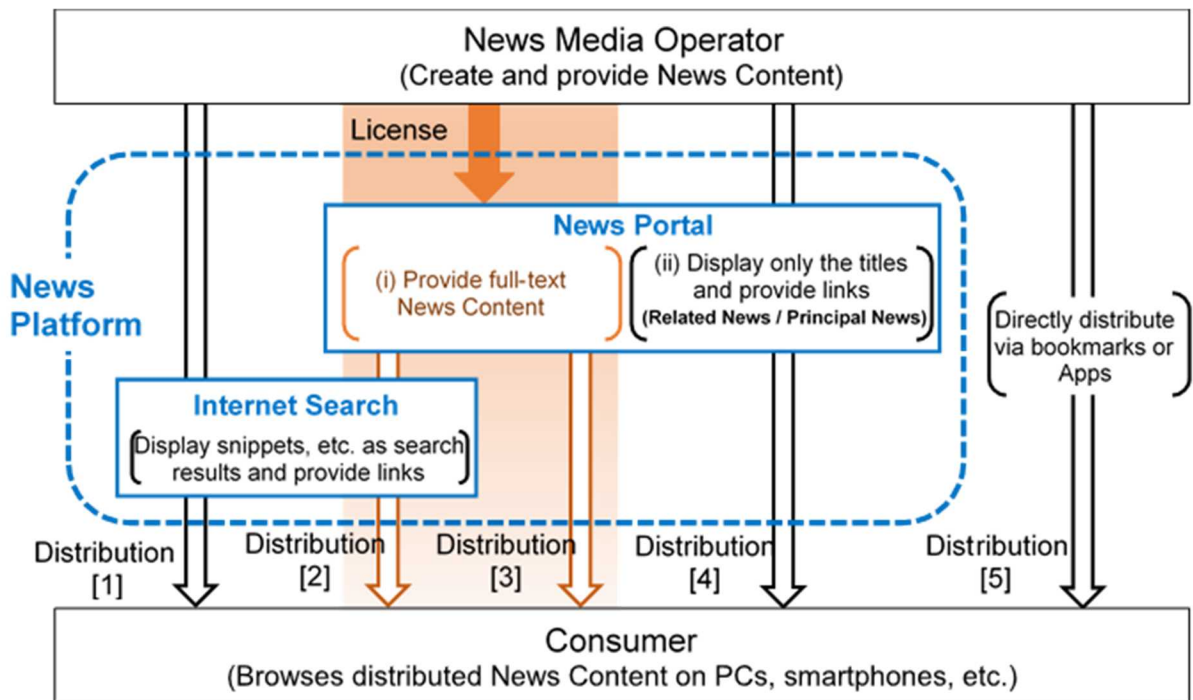
The following section summarizes the characteristics of the market for News Content distribution that affect the evaluation of the competitive environment in the market and evaluations of the specific conduct of News Platform Operators under the Antimonopoly Act and competition policy, based on the actual conditions of the market described in Chapter 2 above.

### 1. Influence on News Content choice among consumers

Looking at the services most used by consumers to find News Content, News Platforms, News Portals (34.8%) and Internet Searches (54.4%), account for nearly 90% of the total, while only 2.0% of consumers directly access News Media Sites (see Chapter 2.2(1)C).

However, News Media Operators may obtain a license fee for News Content from News Portal Operators even when a consumer accesses a News Platform (see Figure 2-1-10 in Chapter 2.1(3)A(A) above, Distribution [2] and [3]), and may obtain the profits generated by the action of consumers viewing News Content when they access News Media Sites via the News Platform and browse News Content (Distribution [1] and [4] of the same figure). On the other hand, whether or not News Media Operators can enjoy the benefits arising from the viewing of News Content in this manner depends on the browsing behavior of consumers who access News Platforms. News Platforms have influence over the browsing behavior of consumers, i.e., the selection of News Content by consumers who access News Platforms, in the following ways.

(Refer to Figure 2-1-10.) Overview of News Content distribution



## (1) News Portals

### A. Selection of News Content to be posted in the Main News Column

The most influential factor for consumers when choosing News Content to view on a News Portal is that the headline of this content is displayed in an easily viewable position (see Chapter 2.4(1)A above).

The News Portal Operator determines the selection of News Content to be posted in the Main News Column of the portal, the position of the display when it is posted, and the order of the display (including the development of an algorithm to determine these items) (see Chapter 2.3(1)A(B) above). The News Media Operator is not involved in such decisions.

Therefore, News Portal Operators are considered to have influence over the selection of News Content by consumers through the selection and display method of this content, since they can reduce opportunities to select it, for example, by not posting certain content or by lowering the ranking of posts of content. This influence on choices by consumers also spills over onto the license fee income of News Media Operators (Distribution [2] and [3] in Figure 2-1-10, in Chapter 2.1(3)A(A) above)

and the customer influx to their websites (Distribution [4]).

## B. Page structure, contents of each page

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Some News Portals may have, in addition to the Top Pages and Details Pages, Intermediate Pages that contain a part of the main body of News Content and commentaries, etc. (see Chapter 2.1(3)B(A)a above). News Portal Operators may determine the composition of such pages and the contents of each page for their News Portals.

According to the results of the consumer survey, more than 20% of consumers tend to view up to the Intermediate Page but not the Details Page when an Intermediate Page is provided, and more than 60% of the consumers who answered so cited the fact that the description on the Intermediate Page is sufficient for the News Content they want to view as the reason for this (See Chapter 2.4(1)B above).

Therefore, News Portal Operators have influence over consumer choices on whether or not to view the Details Page through the contents of the Intermediate Page. For example, the expansion of the Intermediate Page may reduce the consumer's interest in and need to view the Details Page.<sup>92</sup> Such influence on consumer choice spills over onto the license fee income of the News Media Operators that enter into contracts where a license fee is paid when the Details Page is viewed (no license fee is paid for viewing Intermediate Pages), or contracts where a license fee is paid for viewing the Intermediate Page but at a lower level than for viewing the Details Page (see Chapter 2.3(1)A(C)a(c) and (d) above).

## C. Related News Links

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In the News Portal, Related News Links are provided along with the display of News Content (see Chapter 2.1(3)B(A)a. above).

News Media Operators place the greatest importance on an expected customer influx from News Portals to their own News Media Sites as a reason for having a contract with News Portal Operators<sup>93</sup> (see Chapter

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<sup>92</sup> Expanding the Intermediate Page usually contributes to consumer convenience, and this in itself would not immediately give rise to issues under the Antimonopoly Act or competition policy.

<sup>93</sup> In interviews with News Media Operators, it was pointed out that, while license fees should be

2.1(4)A. above), and in fact, 39.5% of the total number of inflows to the websites of News Media Operators that were the target of the News Media Responses were derived from Related News Links (see Chapter 2.2(1)B above). Thus, customer influx through Related News Links has become important for News Media Operators in the operation of their own News Media Sites.

The display of News Content headlines in an easily viewable position has the greatest impact on the selection of News Content by consumers browsing via a News Portal (see Chapter 2.4(1)A. above). In light of this, News Portal Operators can possibly reduce the chances of News Content being selected by consumers, for example, by changing the display position of Related News Links in the News Portal, similar to "A." above, thereby affecting the customer influx to News Media Site.

## (2) Internet Searches

According to the results of the Consumer Survey, when consumers search for News Content using an Internet Search, the most influential factor in whether or not they select the News Content displayed as search results is that the News Content is displayed in the News Frame, followed by the display ranking (see Chapter 2.4(2)B. above). In addition, when consumers search for News Content using Internet Search, approximately 50% of consumers browse only the News Frame, 30% of consumers browse the first page, and 10% of consumers browse up to the second page (see Chapter 2.4(2)B. above). Thus, the display order and format of Internet Search Results have a significant impact on News Content selection by consumers.

News Portal Operators that operate a News Portal as well as an Internet Search are in a technically feasible position to give priority to their own

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commensurate with the value of News Content, the current low level of license fees and the lack of prospects for negotiations to improve them compel operators to focus on customer influx via News Portals. In addition, the News Media Survey also showed results consistent with this point. In the survey, a large percentage (62.9%) of respondents answered that they were "Dissatisfied (There were some problems)" with the license fees in News Content License Agreements (see Chapter 2.3(1)C(B)). As for the results when they requested News Portal Operators to renegotiate in order to resolve the dissatisfaction (problem), 31.9% of answers were that the "News Portal Operator did not agree to negotiate" and 51.1% answered that the "News Portal Operator agreed to negotiate, but the contract was not changed" (see Chapter 2.3(1)C(C)).

News Content in the display of Internet Search Results, for example, by using a News Frame that displays only News Content on their own News Portal (see Chapter 2.3(2)B. above) ("self-preferencing on the search results screen"<sup>94</sup>.)

Self-preferencing on the search results screen can affect the inflow of customers (customer influx) from Internet Search Results to News Media Sites because it can reduce opportunities for consumers to select News Content that is posted on News Media Sites, etc., based on consumer behavior related to the selection of News Content from Internet Search Results.

Google Search and Yahoo! Search are the main Internet Searches used by consumers when browsing News Content, at 53.4% and 44.9% respectively (see Chapter 2.2(1)D above), which means the usage rate of Yahoo! Search is more than 80% of that of Google Search. On the other hand, looking at the percentage of consumer inflows (customer influx) from Internet Searches to News Media Sites, Google Search accounted for 24.1% and Yahoo! Search for 5.9% (see Chapter 2.2(1)B above), which means the consumer inflows from Yahoo! Search accounts for just over 20% of these inflows from Google Search. In light of this fact, it is possible that self-preferencing on the search results screen increases the opportunity for consumers to select Yahoo! News, while decreasing the opportunity for them to select News Media Sites.

## 2. Dual position held by Internet Search Operators

Internet Searches are used with high frequency by consumers to search for News Content (see Chapter 2.2(1)C above), and some Internet Search Operators also operate News Portals (see Chapter 2.2(3)A and D above). Such News Platform Operators are, as News Portal Operators in a competitive relationship with other News Portal Operators and News Media Operators with respect to the distribution of News Content to consumers, while as Internet Search Operators they provide consumers with Internet Search Results for the News Content which is distributed by News Portal Operators including themselves and News Media Operators. Thus, these Internet Search Operators have a dual position in relation to News Media

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<sup>94</sup> This does not include an evaluation of whether the conduct in question is legal or illegal under the AMA.



Operators, as both competitors and as providers of services that may affect competition.

As described in 1(2) above, Internet Search Operators are in a position to influence the choices made by consumers on News Content through the display ranking of search results and the use of News Frames on the display screen. This dual position may induce Internet Search Operators to give self-preference to their own News Content compared to the same content distributed by competing companies in Internet Search Results.

### 3. Regulations under the Copyright Act

Article 47-5(1)(i) of the Copyright Act allows Internet Search Operators to make a minor exploitation of copyrighted works incidental to the provision of search results without the permission of copyright holders, to the extent deemed necessary for the purpose of their services. This provision restricts the rights of copyright holders, but as requirements for the restriction of rights, it stipulates that the use of the work must be "incidental" to the act of retrieving information on the identification or location of the retrieved information and providing the results, and that the use must be "minor". As an exception, if it would "unreasonably prejudice the interests of the copyright owner", it is not subject to the restriction of rights.

The predecessor of Article 47-5, the Copyright Act before the amendment of the Copyright Act in 2008 ("Old Copyright Act") Article 47-6<sup>95</sup> is said to have developed the provisions on the limitation of rights in order to clarify the legality of Internet Searches, which was already widely provided at that time, based on the manner of use of copyrighted works in such services, and its purpose is said to be applied to the current law. <sup>96</sup> <sup>97</sup> Under this

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<sup>95</sup> This was established in the 2009 amendment to the Copyright Act.

<sup>96</sup> "Basic Idea on Flexible Rights Restriction Provisions Responding to the Development of Digitization and Networking (related to Articles 30-4, 47-4 and 47-5 of the Copyright Act)," October 24, 2019, Copyright Division, Agency for Cultural Affairs, Q34 (p. 26). ([https://www.bunka.go.jp/seisaku/chosakuken/hokaisei/h30\\_hokaisei/pdf/r1406693\\_17.pdf](https://www.bunka.go.jp/seisaku/chosakuken/hokaisei/h30_hokaisei/pdf/r1406693_17.pdf))

<sup>97</sup> In the 2008 amendment to the Copyright Act, adding the requirements of "incidental" and "minor" in Article 47-5(1) of the Copyright Act and the proviso that "nor does this apply if the action would otherwise unreasonably prejudice the interests of the copyright owner"; however, it is understood that acts that were possible under Article 47-6 of the former Copyright Act shall continue to meet the requirements of "incidental" and "minor" under Article 47-5(1) of the Copyright Act. Therefore, it is understood that the legality of Internet Search services does not change throughout the period before and after the 2008

interpretation of Article 47-5(1) of the Copyright Act, it is generally understood that the rights of News Content are also restricted with respect to their use<sup>98</sup>, such as displaying a few lines of excerpts (snippets) or thumbnails as results of Internet Searches, and in fact, as mentioned in Chapter 2.3(2)A above, it is believed that most News Media Operators have not negotiated on the use of copyrighted works in Internet Searches.

However, this right is not unconditionally restricted if the use is for Internet Search Results. Whether or not such cases apply is determined from the perspective of whether the results conflict with the market for the use of the copyright owner's work or whether the results interfere with potential future sales channels for the work.<sup>99</sup> <sup>100</sup>

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amendment to the Copyright Law.

<sup>98</sup> Although the headlines of News Content are sometimes displayed in Internet Search Results and News Portals, there is a court decision that denied the copyrightability of such headlines, although this was an individual case. An appellate court decision on YOL's case (Intellectual Property High Court Decision October 6, 2005 LEX/DB28102000) held that "in general, it is difficult to deny that there is relatively little room for creativity in headlines of news reports" and that "whether or not they can be said to be creative expressions should be determined by examining each case individually and specifically." However, the court denied copyrightability in all of the 365 headlines in question (in particular, the 6 headlines that were examined individually and specifically, and the other 359 headlines).

<sup>99</sup> "Re: The Act Partially Amending the Copyright Act (Amendment of 2008) (Commentary)" (p. 32) describes that "it is stipulated that the restriction of rights shall not be applied in cases where the interests of the copyright holder would be unreasonably impaired. Whether or not a case falls under such condition is, like other provisions on the limitation of rights that place a similar proviso, ultimately to be determined in a specific judicial forum from the viewpoint of whether it conflicts with the market for the use of the copyright holder's work or hinders the potential future sales channels for the work. Therefore, for example, for works such as dictionaries, which fulfill their original role if only a part of the multiple meanings of a word is recognized, and for works such as the core of a film, which generally satisfy the users' desire to view the work, the indication of the core of the work as a part of the work may have an adverse effect on the market for viewing the original work, and therefore, depending on the manner of use, such indication of the core of the work may fall under the proviso to this paragraph and not be subject to the limitation of rights under this paragraph."

([https://www.bunka.go.jp/seisaku/chosakuken/hokaisei/h30\\_hokaisei/pdf/r1406693\\_11.pdf](https://www.bunka.go.jp/seisaku/chosakuken/hokaisei/h30_hokaisei/pdf/r1406693_11.pdf))

<sup>100</sup> Looking at the situation abroad, in Europe, Article 15 of the Copyright Directive in the Digital Single Market ("DSM Directive"), which was passed in 2019, states that Member States must, by national law, grant publishers of news publications neighboring rights (reproduction and public communication rights) for the online use of news publications. Subsequently, for some Member States, agreements have been concluded between Internet Search Operators and News Media Operators for the use of content in Internet Searches.

(German Federal Cartel Office Press Release:

[https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Pressemitteilungen/2022/21\\_12\\_2022\\_FA](https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Pressemitteilungen/2022/21_12_2022_FA)

[Article 47-5, paragraph (1) of the Copyright Act]

A person undertaking an action as set forth in one of the following items that contributes to facilitating the exploitation of a work by creating new knowledge or information through computerized data processing (this includes a person undertaking a part of such an action; limited to one doing so in accordance with the standards prescribed by Cabinet Order) may exploit a work that has been made available or presented to the public (this includes a work that has been made available for transmission; the same applies hereinafter) (hereinafter in this Article and Article 47-6, paragraph (2), item (ii) referred to as an "available or presented work") (limited to a publicized work or a work made available for transmission), in any way and to the extent considered to be necessary in light of the purpose of the action set forth in the relevant item, when exploiting it incidental to the undertaking of that action (limited to exploitation that is minor in light of the percentage it constitutes of the part of the available or presented work that has been provided for exploitation, the volume of the part of that work that has been provided for exploitation, the accuracy of indications made at the time it was provided for exploitation, and other elements; hereinafter in this Article referred to as "minor exploitation"); provided, however, that this does not apply if the person undertakes that minor exploitation knowing that the making available or presentation of the works to the public constitutes copyright infringement (for a work made available or presented to the public abroad, this means that the action would constitute copyright infringement if it took place in Japan); nor does this apply if the action would otherwise unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the available or presented work or the circumstances of its minor exploitation:

(i) using a computer to search for the title or author name of a work in which information that a person is searching for (hereinafter in this item referred to as "information being searched for") has been recorded, for the transmitter identification code (meaning the letters, numbers,

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Q\_Google\_News\_Showcase.pdf?\_\_blob=publicationFile&v=4)

(Google's official blog: <https://blog.google/intl/de-de/produkte/suchen-entdecken/neuigkeiten-zu-google-news-showcase/>)

symbols, or any other code by which the transmitter of an automatic public transmission is identified; the same applies in Article 113, paragraphs (2) and (4)) associated with information being searched for that has been made available for transmission, or for any other information concerning the identification or location of information being searched for; and making the results of that search available;

(ii) undertaking computerized data analysis and furnishing the results of that analysis;

(iii) an action that Cabinet Order prescribes as contributing to increased convenience in the lives of the citizenry by creating new knowledge or information through computerized data processing and making the results of this available, beyond what is set forth in the preceding two items.

\*Underlining by the JFTC.

## Chapter 4. Assessment of Competitive Environment for the News Content Distribution Market

Basically, it is left to the voluntary judgment of the parties to a transaction as to what terms and conditions a business should be subject to. However, it becomes a problem under the Antimonopoly Act (AMA) as the abuse of a superior bargaining position when a party who has a superior bargaining position on the other party causes an unjust disadvantage to the other party in light of normal business practice by taking advantage of such position (Article 2(9)(v) of the AMA).

In addition, it becomes a problem under the AMA when a party that is influential in the market employs unfair trade practices such as causing a market foreclosure effect<sup>101</sup> by interfering with the trade of competitors (Paragraph 14 of the Designation of Unfair Trade Practices (Article 2(9)(vi) of the AMA), etc.).

This section evaluates the competitive environment for the News Content distribution market, with a focus on the evaluation of the position of News Platform Operators with respect to News Content trades, which is a prerequisite for considerations under AMA and competition policy.

### 1. Bargaining position of News Platform Operators

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#### (1) Superior bargaining position in the trade of News Content

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##### A. News Portal Operators

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When a News Portal Operator makes a request that is extremely disadvantageous to a News Media Operator, but the News Media Operator is compelled to accept the request because difficulties for such News Media Operator to continue trade with the News Portal Operator would represent a significant hindrance to business operations, the

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<sup>101</sup> “Causing a market foreclosure effect” means cases where non-price restrictive actions can exclude new entrants or existing competitors or reduce their trading opportunities, for example, by making it impossible for new entrants or existing competitors to easily secure alternative suppliers/customers, raising the cost of business activities, or impairing their willingness to enter new markets or develop new products, etc. In determining whether a case constitutes a "causing a market closure effect," competition-enhancing effects that may be recognized in cases where quality or service is improved are also taken into consideration (JFTC, "Guidelines Concerning Distribution Systems and Business Practices under the Antimonopoly Act," Chapter 1.3(1), (2)A, and (3)).

News Portal Operator is deemed to have a superior bargaining position over the News Media Operator. In making this kind of judgement; (i) the degree of dependence of the News Media Operator on the News Portal Operator; (ii) the market position of the News Portal Operator<sup>102</sup>; (iii) the possibility of a change in business partners for the News Media Operator; and (iv) other specific facts indicating the necessity of doing business with the News Portal Operator, are comprehensively considered.<sup>103</sup>

In response to changes in consumer behavior and the distribution structure related to the use of News Content, the need for News Media Operators to do business with News Portal Operators is considered to be increasing (see Chapter 2.1(5)). We examined the position of News Portal Operators that use Yahoo! (which pays the most licensing fees in its dealings with News Media Operators (Chapter 2.2(1)A, Figure 2-2-5)) as an example.

The main compensation for the use of News Content by News Portal Operators is a license fee, but the sending of consumers who have viewed News Content on a News Portal to a News Media Site may also be considered as compensation. According to the News Media Survey, about 60% of News Media Operators say that the largest amount of license fees is related to Yahoo! News (Chapter 2.2(1)A). News Media Operators depend on Internet Searches and News Portal Operators to send the majority of customer influx to their News Media Site, but according to the News Media Responses, 23.3% of the customer influx came from Yahoo! News, and Yahoo! News is a News Portal with the greatest customer influx (Chapter 2.2(1)B, Figure 2-2-6).

The aforementioned necessity of doing business with Yahoo! News in terms of customer influx is supported by the market position of Yahoo! News, especially its high usage rate in the market of services that consumers use to search for News Content. Therefore, in the Consumer Survey, the percentage of consumers who rank Yahoo! News as the

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<sup>102</sup> The size of the market share and its rank in the market are taken into account in the evaluation of positioning in the market.

<sup>103</sup> JFTC, "Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act," 2-2.

most frequently used service was about 20% (see Figure 2-2-7 in Chapter 2.2(1)C), and the percentage of consumers who ranked it as one of the top three most frequently used services was about 40% (see Figure 2-2-8 in Chapter 2.2(1)C). It can be seen that Yahoo! News has the highest percentage among News Portals. <sup>104</sup>

Furthermore, while the distribution and use of existing media has been declining year by year, resulting in a significant decrease in sales income for newspapers and magazines industries and advertising income on existing media, the use of News Content as electronic data has been increasing year by year, resulting in an increase in license fee income and digital advertising income (see Chapter 2.1(1),(2)). In the News Media Survey, approximately 40% of News Media Operators cited that the license fees paid by News Portal Operators are essential for the continuation of their current new media businesses or are essential for their future business strategies, and they cited this as being the reason they do business with News Portal Operators (see Chapter 2.1(4)). In light of these facts, it is considered that transactions with News Portal Operators, which directly or indirectly affect income associated with the use of News Content as electronic data, are often important for the business strategy of News Media Operators.

In addition, Yahoo also operates an Internet Search, and the "self-preferencing on the search results screen" mentioned in Chapter 3.2 above is also a factor that increases the need for News Media Operators to do business with Yahoo. In other words, self-preferencing on the search results screen leads consumers to a company's News Portal by displaying the News Content of that same portal in a position where consumers can more easily select it, while at the same time discouraging consumers from viewing News Media Sites. This results in a decrease in customer influx to News Media Sites from Internet Searches and a decrease in advertising income based on the number of PVs. To cover this decrease in customer influx, it becomes important for News Media Operators to increase and maintain the customer influx

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<sup>104</sup> Since consumers who use Internet Searches to search for News Content use News Portals or News Media Sites linked to search results to view the full text of News Content, the share of Yahoo! News in the market for services used by consumers to browse News Content is expected to be even higher than the percentage in the market for services used by consumers to search for News Content (39.1%) (see Chapter 2.2(1)C).

from News Portals. This increases the need for News Media Operators to do business with News Portal Operators who have influential News Portals which can be expected to serve as a route for customer influx.

In determining whether a News Portal Operator's position is superior to that of the other party in a transaction (i.e., whether it is in a superior bargaining position), it is necessary to take into account the circumstances of transactions of each News Media Operator, but in light of the above, News Media Operators might have no choice but to accept even Yahoo's extremely disadvantageous requests because having difficulties with continuing transactions with Yahoo, which itself provides Yahoo! News, would be a major obstacle to their business operations. Therefore, Yahoo might have a superior bargaining position to the News Media Operators that have transactions with it. In addition, it is relatively likely supposed to have a superior bargaining position to the News Media Operators with relatively small business scales. <sup>105</sup>

Considering that the percentage of consumers who use News Media Sites when searching for News Content is low and the percentage of those who use News Portals is high (see Figure 2-2-8 and Figure 2-2-9 in Chapter 2.2(1)C), the possibility of even News Portal Operators other than Yahoo having a superior bargaining position in individual business relationships cannot be ruled out. <sup>106</sup>

## B. Internet Search Operators

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With regard to the use of News Content in Internet Searches, it is considered that in many cases in Japan, there is currently no license agreement between Internet Search Operators and News Media Operators (see Chapter 2.3(2)A). In this regard, Internet Search

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<sup>105</sup> With respect to the above "(iv) other specific facts indicating the necessity of doing business with the News Portal Operator," if the business scale of this News Portal Operator is significantly larger than that of the News Media Operator, the News Media Operator will have a greater need to do business with the News Portal Operator. Therefore, the difficulty for the News Media Operator for continuing transactions with the News Portal Operator is likely to cause a significant hindrance to its business operation (JFTC, "Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act," II.2 (4)).

<sup>106</sup> With regard to the license fees for contracts with News Portal Operators other than Yahoo! Japan, more than 40% of News Media Operators believe that they were dissatisfied (problematic) when the contracts were concluded, and as the reason for concluding the contracts in spite of this, many of them cite the fact that the contracts were unilaterally presented as unchangeable and there was no room for negotiation (see Chapter 2.3(1)C(A) above).



Operators are aware that the use of News Content in Internet Searches does not violate the Copyright Law (see Chapter 5.2(1)A).

However, not all uses of News Content in Internet Searches are possible without permission under the Copyright Law (see Chapter 5.2(1)B and C), and depending on the type of use, it may be necessary to conclude a license agreement between an Internet Search Operator and a News Media Operator regarding the use of News Content in Internet Searches. In these cases, in light of the following circumstances, an Internet Search Operator that operates an Internet Search that sends certain customer influxes to a News Media Site may be in a superior bargaining position to a News Media Operator in the transactions related to such agreement. <sup>107</sup>

According to the News Media Responses, about 30% of the customer influx to News Media Sites comes from Google Search and Yahoo! Search (see Chapter 2.2(1)B), and it can be said that the operation of News Media Sites is dependent to a certain extent on a customer influx from Internet Searches. Therefore, it is considered important for News Media Operators to have their News Content listed in Internet Searches, as it leads to the maintenance as well as an increase in views of their News Content on the News Media Site.

In light of this point, if a situation arises in which a News Content License Agreement is required for the use of News Content in Internet Searches (in other words, a situation in which a license agreement is required in order to receive a customer influx from Internet Searches), News Media Operators might have no choice but to accept even an Internet Search Operator's extremely disadvantageous requests to avoid their News Content to be no longer posted on Internet Searches, which would be a major obstacle to their business operations.

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<sup>107</sup> This report only examines cases in which the conclusion of a license agreement is necessary, and does not imply that there are no problems under the Antimonopoly Act in cases where no license agreement is concluded.

## (2) Position in the market of services used when searching for News Content including Internet Searches

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The display in the services used to search for News Content, including Internet Search Results, can influence competition between the websites of News Portal Operators and News Media Operators, whose customers are consumers, through consumers' choice of News Content (see Chapter 3.1(2)).

An act of an operator influential in the market of services used when searching for News Content that interferes with the transactions of competing operators in the market for a service used by consumers to view News Content on the Internet may be problematic under the AMA if the act causes a market foreclosure effect in the relevant market. In this case, a market share of more than 20% is a rough guide as to whether or not an operator is recognized as an operator influential in the market. <sup>108</sup>

Although the market share figures in the market of services used when searching for News Content are not known, according to the Consumer Survey, the most frequently selected services used to search for News Content were Google search with 28.4% and Yahoo! search with 26.1% (see Chapter 2.2(1)C), so it is possible that Google and Yahoo are the operators influential in the market of services used when searching for News Content.

## 2. Fairness and transparency of transactions

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Increasing the fairness and transparency of transactions contributes to ensuring a fair competitive environment. With regard to these points, which were also pointed out in the Digital Advertising Report<sup>109</sup>, in News Platforms, there is a disparity between News Platform Operators and News Media Operators on information important for transactions or for business continuity.

### (1) News Portals

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According to the News Media Survey, more than 40% of News Media Operators were dissatisfied (problematic) with the license fees when they

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<sup>108</sup> JFTC, "Guidelines Concerning Distribution Systems and Business Practices Under the Antimonopoly Act," Part I.3(4).

<sup>109</sup> Digital Advertising Report, Part 3, Chapter 4.4 (p. 141 and following).

concluded a News Content License Agreement (see Figure 2-3-6 in Chapter 2.3(1)C(a)). In addition, many of them cited the lack of specific negotiation materials to resolve this dissatisfaction (problems) as the reason for concluding a contract despite being dissatisfied (see the same Figure 2-3-7).

News Media Operator cited the following information as necessary for negotiating license fees in a News Content License Agreement: the total amount of sales (advertising income) from all the pages on which News Content licensed by it is published, the total amount of sales (advertising income) from all the Details Pages on the News Portal, and the total amount of the license fees for News Content paid by the News Portal Operator to all News Content licensors, etc. (see Figure 2-3-10 in Chapter 2.3(1)C(B)). In addition, interviews with News Media Operators indicated that, in order to calculate an appropriate level of compensation, data on advertising income from the page on which the news is posted is not sufficient, and that data on the contribution of News Content in attracting customers to various services offered by the website, such as e-commerce and e-payments, is necessary.

From the viewpoint of realizing a fair competitive environment, it is desirable to have comprehensive discussions between parties when determining the level of a license fee, and the aforementioned data required by News Media Operator for negotiations is only available to News Portal Operators, and cannot be obtained from them by News Media Operators without cooperation from News Portal Operators. In addition, since the market for the licensing and distribution of News Content as electronic data is a relatively new field, and News Content transactions are conducted under News Content License Agreements with confidentiality obligations (see Chapter 2.1(2)A), it is not easy to collect information on the trade terms of other operators. As such, it is assumed that it is difficult for News Media Operators to accumulate data on general transaction methods and conditions.

Although increasing the fairness and transparency of transactions contributes to ensuring a fair competitive environment, as described above, there appears to be a disparity in the information available to News Portal Operators and News Media Operators regarding the data needed for verifying the appropriateness of the level of license fees.

## (2) Internet Searches

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With regard to Internet Searches, the Digital Advertising Report states that Internet Search Operators are encouraged to disclose to the greatest extent possible sufficient data regarding algorithm changes that may have a significant impact on the business activities of News Media Operators, such as major factors that determine search rankings, so that News Media Operators may prepare for such changes, and as far as it is possible establish an effective consultation structure for domestic News Media Operators as a prerequisite for both parties to reach a common understanding on how far such data disclosure efforts can be deepened.

<sup>110</sup>

In this study, one News Platform Operator that operates an Internet Search explained that it was taking the following actions related to the matter just described.

- Providing information on search algorithm updates, the latest news on search rankings, the latest features of search services, etc. via blogs, social media, video sharing sites, etc.
- Providing News Media Operators with functionality to test how well their News Media Site is designed against the criteria that are important for search rankings.
- Establishing a website<sup>111</sup> that provides detailed information on how the Internet Search works.
- Establishing a website<sup>112</sup> for search results troubleshooting.
- Establishing a website<sup>113</sup> with detailed advice on how to build a website that users will appreciate and that is likely to rank highly in search results.
- Publishing a detailed Search Engine Optimization (SEO) Starter Guide.<sup>114</sup>

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<sup>110</sup> Digital Advertising Report, Part 3, Chapter 4.4(1) [pp. 141-142].

<sup>111</sup> For example, Google's website, "Google Search Overview."

<https://www.google.com/intl/ja/search/howsearchworks/>

<sup>112</sup> For example, Google's website, "Search Results Troubleshooting"

<https://support.google.com/webmasters/topic/9163961/?hl=ja>

<sup>113</sup> For example, Google's website, "web.dev"

<https://web.dev/>

<sup>114</sup> For example, Google's website, "Consider Using an SEO Firm."

<https://developers.google.com/search/docs/fundamentals/do-i-need-seo?hl=ja>

This kind of effort by a News Platform Operator can be seen as providing information to News Media Operators regarding the structure and changes in search algorithms.

On the other hand, in surveys and interviews with News Media Operators, it was pointed out that the search algorithm remains unclear (for details of the points raised by News Media Operators, see Chapter 5.2(3)).

## Chapter 5. Views from The Antimonopoly Act and Competition Policy

Enhancing the fairness and transparency in transactions between News Platform Operators and News Media Operators, and in the use of News Content by News Platform Operators, as well as ensuring a fair competitive environment, will contribute to the development of a fair business environment for the online distribution of News Content and contribute to the development of an environment in which consumers can enjoy high-quality News Content on a sustainable basis.

Various measures can be considered to enhance fairness and transparency of transactions between these two parties and to ensure a fair competitive environment. <sup>115</sup> Given that it was inferred through this study that there is insufficient consultation and communication between these two parties, it is expected that News Platform Operators and News Media Operators will first make efforts to resolve problems through negotiations between them. The two parties are encouraged to proceed with such efforts based on sufficient mutual understanding, in light of their mutual relationship, as News Content produced by News Media Operators is essential for News Platform Operators to provide their services, and News Media Operators use News Platforms for the distribution of their News Content.

On the other hand, depending on the transactions between News Platform Operators and News Media Operators and the use of News Content by News Platform Operators, problems under the AMA may arise.

From this perspective, with regard to problems related to News Portals and Internet Searches operated by News Platform Operators, this chapter indicates our view regarding joint negotiation on trade terms, as well as the claims of both parties that may be used as a reference during negotiations between parties, and the facts revealed through this study. It also summarizes our views on the efforts encouraged for the concerned parties (Views from the competition policy) and acts that may be problematic under

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<sup>115</sup> In particular, more than 75% of News Media Operators have never negotiated with News Platform Operators to resolve their dissatisfaction, even though they are dissatisfied with the license fees. On the other hand, News Platform Operators stated that they are ready to negotiate or respond to specific requests from News Media Operators. In addition, there is a disparity in the data available between News Platform Operators and News Media Operators regarding data needed for negotiations on the terms and conditions of transactions. News Media Operators believe that data on the basis of transaction terms such as license fees, is not sufficiently disclosed, while News Platform Operators believe that sufficient information is disclosed.

the AMA from the viewpoint of enhancing the fairness and transparency of transactions, etc., between the parties and ensuring a fair competitive environment.

## 1. Issues regarding News Portal

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As described in Chapter 2.1(3)B(A) above, News Portal Operators receive advertising income by distributing News Content provided by News Media Operators after selecting News Content to be posted on the News Portal's Top Page and other pages. By providing News Content to News Portal Operators based on a contract, the News Media Operator receives a license fee from the News Portal Operator, which is funded by advertising income, and also receives profit from a customer influx to the News Media Site facilitated by the News Portal. The terms and conditions of the transactions between the two parties, including license fees, are determined after taking into consideration the value of the News Content as well as the effect of a customer influx to a website. The following issues can be recognized concerning transactions between the two parties on such News Portals and the use of News Content that may affect the customer influx.

### (1) Licensing fee levels and their determination basis for News Portals

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#### A. Remarks from News Media Operators and explanations from News Platform Operators

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<Remarks from News Media Operators >

(a) Clarification of the basis for determining the level of license fees

- News Portal Operators should disclose the following data on which the calculation of license fees is based in order to enable fact-based contract negotiations.
  - Advertising unit price of News Content pages in the calculation.
  - The amount of advertising income and profit earned by News Portal Operators from the headlines of News Portal (Top Page containing multiple News Content Headlines-etc.) and News Content pages.
- It is said that the level of licensing fees paid by News Portal Operators to News Media Operators (unit price per 1,000 PV) varies depending on the type of news media and the size of the business. If the unit price is set lower than other companies, the

reason should be disclosed.

(b) Calculation methods for license fees actually paid

- The basis for the calculation of monetary compensation should be disclosed. Even when a News Portal Operator is requested to disclose the data and mechanism that forms the basis for the calculation of monetary compensation, they only explain the calculation factors in abstract terms and do not disclose the specific logic, data, or breakdown for the amount. Therefore, it is not possible to confirm the calculation process and it is not possible to confirm whether the amount to be paid under a contract has been paid correctly.

(c) Reflection of contribution to revenue of News Portal Operators

- In addition to advertising income from the pages on which News Content is posted, there should be a contribution to the revenue of News Portal Operator based on this content. This contribution should also be reflected in the level of license fees, and for this purpose, the following information should be disclosed by News Portal Operators as to the extent of this contribution to their revenue.
  - Contribution to attracting customers to the wide variety of web-related services offered by News Portal Operators, including e-commerce and e-payments.
  - Contribution to the ongoing benefits (customer lifetime value) to News Portal Operators and other related businesses.
  - Contribution to the enhancement of the brand power of the News Portal by means of publishing high quality News Content that is costly to cover and edit.

<Explanations from News Platform Operators>

(a) Clarification of the basis for determining the level of license fees

- As a basis for contract negotiation, information such as the PV of each type of page subject to calculation and the customer influx by Related News Links is disclosed, as well as other items depending on the content of the contract, for example, the advertising unit price of the page containing the News Content



subject to calculation if payment is selected based on the revenue sharing method. If specific requests for disclosure of other items are received in the future, it will be considered to the extent necessary.

In disclosing the reason for setting the level for each business operator, we would have no choice but to mention the contract unit prices of other companies, which we believe is not appropriate from the perspective of preserving our competitive position and maintaining business confidentiality.

The level of license fees is determined by mutual agreement, taking into consideration factors such as the actual results of contracts with other News Media Operators, as well as factors such as whether the field is one in which we expect active distribution, and whether we can expect stable and continuous provision of high-quality News Content.

- In our company, a considerable volume of contracts is in a form that uses the same unit price and calculation method common to each News Media Operator. Regardless of the type of contract, the compensation to be paid to each News Media Operator and the terms of payment are agreed upon by both parties. In forming a contract, we present the basis for the calculation of compensation and the payment terms that we propose to each News Media Operator to the extent possible, so as to contribute to their decision-making process, and we will continue to do so in the future.

For example, in the case of a contract format in which the total payment consideration for “revenue share” and “article PV unit price (number of article PV × unit price)” is paid in accordance with a posted page, the advertising sales (advertising revenue), number of times an advertisement is displayed, and revenue sharing amount to be calculated for “revenue sharing” are shown on each News Media Operator’s management screen (monthly sales report). The “article PV unit price” is also revised semiannually to the most appropriate unit price based on changes in market prices and other economic conditions, and prior notice is given at least one month before the revision is applied. We also

respond to inquiries from News Media Operators regarding the background behind unit price revisions.

- Regarding the advertising unit price for pages containing News Content, the advertising unit price as a reference value and the data necessary for its calculation are disclosed for News Media Operators.

The way advertising incomes and profits should be disclosed and paid as compensation requires consideration from a variety of perspectives, and our thoughts on how to distribute revenues with News Media Operators are summarized below.

As a partner of News Media Operators, we always aim to build a system where both parties can prosper, and based on this value, the revenue sharing rate is, in principle, 50-50. The reason why we do not change the revenue sharing rate for each individual business is to ensure fairness among businesses that distribute high quality News Content.

In addition to revenue sharing, we believe that the customer influx to News Media Operators is an important contribution method. We aim to build a relationship that mutually contributes to the enhancement of the brands of both News Media Operators and us through technology that optimizes the reading experience on smart devices by using an algorithm to select high-quality News Content. In addition, in order to increase advertising revenues which, form the revenue base, we are working to ensure that our services are used on a daily basis through the provision of user incentives and marketing activities.

As a company that operates a business that depends on contributions from a wide variety of stakeholders, we will continue to consider ways to return the contributions that News Content makes to the News Portal business from a variety of perspectives.

Disclosure of some or all of our sales, including transactions other than those between the parties, would require careful consideration because it would be necessary to resolve contractual issues (e.g., confidentiality obligations with other interested parties, etc.) and could also constitute the provision of nondisclosed confidential information.

- Under the terms of News Portal agreements, for which we pay a license fee, the News Media Operator is compensated for selecting News Content for the News Portal, for placing headline and body excerpts and links to such News Content on the News Portal, and for enabling access to News Content on the News Media Site from the News Portal, for which a fee would normally be charged. Payments are made monthly. The amount paid depends on whether the News Media Operator allows access to News Content that would normally require a fee to view, the number of media included in the contract, and how many News Content frame displays per day the News Media Operator agrees to update.

(b) Calculation methods for license fees actually paid

- We understand that the basis for calculating the amount of money received by News Media Operator is explained at the time of each contract, and that we provide information that confirms the basis for the monthly amount of money received. We would like to make efforts to provide clearer explanations if it is suggested that our explanation is not sufficient.

Where we have adopted a system whereby a license fee is paid based on the number of PVs, etc., plus an additional amount calculated based on our own criteria, the payment is made in three categories. Clicking on the headline at the top of our Top Page takes the viewer to an Intermediate Page, which is organized by our editorial staff with a combination of photos, graphics, Q&A, supplementary links, etc. The first payment is made for the image at the top of this Intermediate Page, the second payment is for the graphics used as "key points", Q&A, supplementary links, etc. located in the middle of the Intermediate Page, and the third payment is based on the percentage of clicks by users of the three buttons such as "I learned something" at the bottom of the Details Page (article reaction buttons).

(c) Reflection of contribution to revenue of News Portal Operators

- In light of the fact that e-commerce and e-payment services

represent a completely different business model from the News Portal business, and that there may be a bidirectional effect such as a mid- to long-term increase in the number of News Media Operators contracting with us and a customer influx from other web-related services to the News Portal business, such “contribution to the revenue of News Portal Operators by News Content” should not be flatly taken into account in the licensing fee level, and it would be difficult to measure and evaluate such contributions.

In any case, we believe that the basis for determining the level of licensing fees should be determined based on the purpose and manner of the specific use of News Content. Nonetheless, we will consider specific requests on the items it is based on to the extent necessary.

- For "disclosure of contributions to the revenue of News Portal Operators based on News Content and related information," monetary compensation is set to include this contribution. For example, for revenue sharing, we use a proprietary calculation method to score the response of users to the distribution of News Content by each news media outlet, and disclose the monthly rankings for user satisfaction with the distribution of News Content on a management screen. The top-ranking news media are given a variable share of advertising revenue for providing News Content, thereby linking the value of the relationship between users and media (satisfaction and contribution) to profitability.

In the case of a contract with a fixed monthly fee, we provide the basis for such calculations and payment terms to the extent possible, based on “quotation proposals from each News Media Operator” or our own calculations for the number of PVs of each News Content, expected advertising income, unit price, payment terms, and other assumptions. Then after the negotiations, a contract is concluded upon mutual agreement.

- News Content does not contribute directly to profitability in a manner that can be disclosed to News Media Operators, as we do not derive revenue from News Portals that involve the payment of

license fees. Indirect contributions to the strength and branding of our other products is not quantifiable enough to be disclosed to News Media Operators, nor is it particularly related to News Content as compared to other categories of content.

News Portals do not direct traffic to our own e-commerce and e-payment services. In particular, a News Portal, which involves the payment of a license fee is dedicated to the display of News Content search results and is accessed through an application and website that is separate from our Internet Search.

## B. Views from the competition policy

### (A) Clarification of the basis for determining the level of license fees

The average license fee paid by News Portal Operators to News Media Operators is approximately 124 yen per 1,000 PV (see Chapter 2.3(1)A(C)). On the other hand, the unit price of digital advertisements paid to News Media Operators for the operation of their News Media Sites averages approximately 352 yen per 1,000 PV (see Chapter 2.3(1)C(B)), which is about three times higher than the level of license fees. In addition, as pointed out by News Media Operator in the Digital Advertising Report<sup>116</sup>, there are cases in which a part of News Content (article headlines, and part of the text and photos) is used in an Intermediate Page, but there are contracts that stipulate that no license fee is charged for the Intermediate Page. About 44% of News Media Operators were dissatisfied with the license fees at the time of concluding a contract, and this dissatisfaction increased to about 63% after concluding a contract (see Chapter 2.3(1)C(A) and (B)), and such dissatisfaction can be attributed to the aforementioned differences from the advertising unit price at News Media Sites and the way the license fees are determined.

The level of license fees is determined in individual contracts between parties, taking into consideration the value of the News Content, the effect of a customer influx to a News Media Site, etc., as well as the costs required to operate the News Portal, so it is difficult to make a general statement about the highs and lows based on these overall trends. However, approximately 70% of News Media

<sup>116</sup> Digital Advertising Report, Part 3, Chapter 4.2 (2)b(a) (pp. 134-135).

Operators who are dissatisfied with license fees cite unclear calculation criteria as the reason for their dissatisfaction (see Chapter 2.3(1)C(B)). About 50% of News Media Operators who were dissatisfied with license fees stated that they concluded a contract despite their dissatisfaction because there were no concrete materials to use for negotiations (see Chapter 2.3(1)C(A)).

With regard to the data needed to verify the appropriateness of the level of license fees, there is a disparity in the data obtained between News Portal Operators and News Media Operators (see Chapter 4.2(1)). This disparity in information has resulted in a relative disparity in bargaining power between the parties, which suggests that it is difficult to conduct fair transactions.

Therefore, from the viewpoint of enhancing fairness and transparency of transactions and ensuring a fair competitive environment, News Portal Operators are encouraged to disclose to the extent possible data on which the license fee level is based on, including advertising income from the usage of News Content (including such usage in Intermediate Pages), so that News Media Operators may review the appropriateness of the license fee level and smoothly negotiate with News Portal Operators.

From this perspective, this study has identified and generalized the following realities that may be helpful in verifying the appropriateness of the level of license fees, and advancing negotiations between the parties (see Chapter 2.3(1)A and B and Chapter 2.4 above).

- How News Portals set licensing fees for News Content
- Annual trends in the level of licensing fees for News Content
- The level of licensing fees for News Content by industry and business size.
- Percentage of customer influx to News Portal views
- Proportion of total license fees paid to News Media Operators to total digital advertising incomes on News Portal
- The level of the unit price of digital advertisements posted on News Media Sites.
- Percentage of consumers that view Top Pages, Intermediate Pages, and Details Pages, respectively.
- Reasons why consumers view up to the Intermediate Page and

not up to the Details Page, etc.

In order to verify the appropriateness of the level of license fees and to conduct more concrete negotiations regarding license fees, it is desirable that, in addition to the above general information, data be disclosed on the ratio of license fees to digital advertising income on News Portals for each News Media Operator with which they do business. In this regard, some News Portal Operators have explained to the JFTC that they would like to consider such requests if a specific request for disclosure of needed data is made by News Media Operator (see “A.” above), it is considered important for News Media Operators to communicate such specific requests to News Portal Operators.

#### (B) Calculation methods for license fees actually paid

If the license fee is calculated based on the original criteria adopted by a News Portal Operator, it is unclear to News Media Operators how license fees are calculated. In addition, News Media Operators conclude contracts assuming to some extent the license fee that will actually be obtained, but if the News Portal Operator does not clarify the license fee calculation method, News Media Operators cannot confirm whether the license fees being actually paid are reasonable or not.

From the perspective of enhancing the fairness and transparency of transactions and ensuring a fair competitive environment, News Portal Operators are encouraged to disclose to the extent possible the calculation method for license fees that have been actually paid so that News Media Operators may review the appropriateness of the license fee level and are enabled to negotiate smoothly with News Portal Operators.

#### (C) Reflection of contribution to revenue of News Portal Operators

It is believed that News Portal Operators receive advertising income from the use of News Content provided by News Media Operators, and also indirectly benefit in various ways, such as by a customer influx from News Portal to other services operated by News Portal Operators. In this regard, some News Portal Operators pointed out

that the use of News Content contributes to their revenue, which is in addition to advertising income from their own News Portal (see Chapter 2.3(1)B).

On the other hand, such information on indirect profits and contributions to earnings is available only to News Portal Operators, resulting in an information gap between News Portal Operators and News Media Operators (see Chapter 4.2(1)). This disparity in information seems to create a relative disparity in bargaining power between the different parties, then to cause difficulties in conducting fair transactions.

Therefore, from the perspective of enhancing the fairness and transparency of transactions and ensuring a fair competitive environment, News Portal Operators are encouraged to have their licensing fees reflect contributions to their revenues other than advertising income from their News Portal, which is generated by the use of News Content<sup>117</sup>.

### C. Views from the Antimonopoly Act

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News Portal Operators may be in a superior bargaining position to News Media Operators when they are parties to a transaction (see Chapter 4.1(1)A).

According to the News Media Survey, there are a certain number of News Media Operators that have experienced having the license fee calculation criteria unilaterally changed (see Chapter 2.3(1)C(B)).

It would be a problem under the AMA (Abuse of a superior bargaining position) if a News Portal Operator who has a superior bargaining position over the other party, by taking advantage of such position, set a significantly lower license fee amount by unilaterally changing the content of the contract or through other conducts, thereby causing an unjust disadvantage to a News Media Operator as the other party in light of normal business practice.

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<sup>117</sup> It has been pointed out that the "income approach," which determines a patentee's share of profits based on the profits expected to be gained from the use of a patent, is the most reasonable way to calculate the license fee for a patent right that is an intangible object (Japan Intellectual Property Arbitration Center, License Fee Determination Project Team, "Methodology for Calculating the Amount Equivalent to License Fees for Patent Rights, etc." July 2, 2018).



In making a judgement on this, comprehensive consideration should be given to license fee determination methods, such as whether sufficient consultation was completed with the News Media Operator, as well as whether the license fee is discriminatory compared to the fees charged to other News Media Operators, the status of deviations from normal license fees, the relationship between supply and demand for News Content, and other factors. <sup>118</sup>

Approximately 53% of News Media Operators who were dissatisfied with license fees stipulated in a contract stated that the News Portal Operator unilaterally presented the contract as unchangeable and that there was no room for negotiation (see Chapter 2.3(1)C(A)). In addition, about 32% of News Media Operators who tried to re-negotiate to resolve dissatisfactions with license fees after the conclusion of a contract stated that News Portal Operators did not agree to re-negotiations (see Chapter 2.3(1)C(c)).

From the perspective of preventing violations of the AMA, when News Portal Operators are requested by a News Media Operator to negotiate the level of license fees during the renewal of a News Content License Agreement, News Portal Operators are encouraged to hold sufficient discussions with News Media Operators, including disclosing the basis for determining the level of license fees as described in “B.” above.

Although News Portal Operators do explain that the level of the license fee is determined through mutual agreement with News Media Operators, it is important that the News Media Operators are satisfied with agreements and there is sufficient consultation. <sup>119</sup>

## (2) Changes in layout, etc., that may affect customer influx

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### A. Remarks from News Media Operators and explanations from News Platform Operators

<Remarks from News Media Operators >

- When adding services or changing user interfaces that may cause

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<sup>118</sup> JFTC, " Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act," Chapter IV.3(5)A.

<sup>119</sup> For the concept of “agreement,” see JFTC, “Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act”, Chapter IV.2(2)B.

disadvantages to News Media Operators, such as the following, negotiations should be conducted in advance to confirm whether or not the change is acceptable and to adjust license fees and other contract terms accordingly.

- Introduction of new services to a News Portal and associated changes to the user interface which lead to a relative weakening of user interest in Related News Links that appear in conjunction with News Content, changes to the display position (pushing down the position and increasing the distance between News Content and Related News Links), and other factors resulted in a significant decrease in the customer influx to News Media Sites compared to when a contract was made.
- Changes were made to automatically add text links to nouns in the body of News Content, directing visitors to search-linked advertisements. There is concern that such changes lead to a decrease in the customer influx to News Media Sites. Furthermore, there are concerns that the addition of links to incorrect or irrelevant information or advertisements, which is not intended by the author of the text, may damage the credibility of articles.
- News Portal Operators are creating and publishing articles on News Portals that combine portions of articles from multiple News Media Operators, even though this is not included in the license agreement. Such combined articles, which themselves contain descriptions that reveal the contents of the original individual articles, reduced the number of visitors to individual article pages, which in turn reduced the income earned by News Media Operator.

<Explanations from News Platform Operators>

- While great care is taken in making changes to the user interface to avoid pushing down the display position of Related News Links, a case in point is the introduction of reaction buttons in June 2021.

These buttons were inserted between the main body of News Content and Related News Links in order to increase the return to News Media Operators of "articles that users find to be high quality," and to establish a new payment mechanism based on clicks on these buttons, in addition to the previous payment mechanism based on PV. At the time of introduction, we conducted in-house tests and

confirmed that the impact on customer influx was negligible.

At this time, we have not received any information from News Media Operators, including some of those to whom we have provided individual explanations at the time of the introduction of this policy, that they have experienced a significant decrease in the customer influx to their websites, but we would take appropriate action if such an event were to occur.

Since the customer influx sent by Related News Links varies greatly depending on the content of the headlines of Related News, careful analysis is required to determine the causal relationship between the implementation of our measures and changes in customer influx.

- In principle, text links in the body of News Content are introduced by default in order to improve user convenience. However, it is possible to disable the introduction of this feature on a media-by-media basis, and we have decided not to introduce text links for News Media Operators that have expressed the opinion that the introduction of text links should be postponed.

Before introducing this function, multiple patterns were tested within the company, and the one that had the least impact on customer influx through Related News Links was adopted. In addition, we have also paid attention to the operational design of our websites to ensure that there is no impact on customer influx to News Media Sites, such as capping the number of text links per article, and some articles, such as incidents and accidents, have been excluded from text link settings, etc.

At this point, we have not received any information from News Media Operators, including some operators to which we provided individual explanations at the time of introduction, that they have experienced a significant decrease in the customer influx to their websites, but we would take appropriate action if such an event were to occur.

From the perspective of article reliability, we are trying to remove erroneous text links as quickly as possible (generally within 10 minutes of discovery), for example, it occasionally happens that a text link is set to a person with the same name as a famous person, or that

a text link is set to only a part of a text link due to a mistake in word separation. We will continue to improve the accuracy of this tool to make it more useful for users.

- Based on user needs and the needs of each News Media Operator, the majority of current operations include the full text of each News Media Operator's News Content in order to increase the flow of users to the articles of News Media Operators.

## B. Views from competition policy

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The addition of features and changes to the user interface on News Portal may contribute to the convenience of News Media Operators and consumers. In addition, some of the initiatives of News Portal Operators pointed out by News Media Operators in "A." above are recognized as initiatives to evaluate the quality of News Content provided by News Media Operators and reflect this in license fees. <sup>120</sup>

On the other hand, if a News Portal Operator makes changes to the layout of a News Portal that could affect consumer browsing behavior, such as changing the position of links to News Media Sites (Related News Links) on the News Portal to a less visible position, this may reduce the customer influx to those News Media Sites.

Considering that changes in the layout, etc., of a News Portal may affect the customer influx to a News Media Site, in terms of the perspective of enhancing fairness and transparency of transactions and ensuring a fair competitive environment, News Portal Operators are encouraged to provide News Media Operators with a sufficient explanation in advance of any changes in the layout, etc., of a News Portal that may affect the customer influx to News Media Sites, by indicating the details of such changes and responding to inquiries appropriately.

In addition, some of the functions in News Portal are configurable by

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<sup>120</sup> The Digital Advertising Report states, "It is also important to provide a mechanism that allows publishers who provide high-quality content, especially news with guaranteed accuracy and content that is useful to society and economy, to be evaluated fairly and, as a result, to ensure the quality of the news and other content provided by publishers through fair competition." (Digital Advertising Report, Part 4, Chapter1.3(7) [p. 148]).

each News Media Operator (see “A.” above), and News Portal Operators are encouraged to change the layout of News Portals, etc., when technically feasible, in accordance with the intentions of each News Media Operator with which they do business.

### C. Views from the Antimonopoly Act

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The main compensation for the use of News Content on News Portals is a license fee, but sometimes the customer influx to News Media Sites via News Portals is also considered to be compensation (see Chapter 2.1(3)B(A)b and Chapter 2.3(1)C(A)). Therefore, the license fee is usually determined after taking into consideration the effect of a customer influx to News Media Sites, and News Media Operators may agree to a relatively low level of license fee or terms and conditions that do not include payment of a license fee if a large effect of customer influx to their News Media Site is expected.

Given this structure of compensation under license agreements, if the customer influx to a News Media Site decreases due to changes in the user interface of a News Portal and the News Media Operator requests the News Portal Operator to review trade terms, including license fees, it would be a problem under the AMA (Abuse of a superior bargaining position) if the News Portal Operator who has a superior bargaining position over the News Media Operator as the other party, by taking advantage of such position, refused the negotiations to review the trade terms and did not change the trade terms without sufficient negotiation, thereby causing an unjust disadvantage to the News Media Operator as the other party in light of normal business practice.

From the perspective of preventing violations of the AMA, when a News Portal Operator is requested by a News Media Operator to review license fees with a reasonable basis in connection with a decreasing customer influx caused by changes in the layout of a News Portal, etc., the News Portal Operator is encouraged to hold sufficient discussions with News Media Operators.

### (3) Selection criteria for News Content to be posted in the Main News Column

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#### A. Remarks from News Media Operators and answers from News Platform

## Operators

### <Remarks from News Media Operators >

- Criteria, etc., should be clarified for the following News Portal operations as they have a significant impact on the number of PVs and license fees for News Content and the customer influx to News Media Sites.
  - We are concerned that the selection criteria and operational methods disclosed by News Portal Operators for News Content to be published in the Main News Column of News Portals are vague and unclear, and that arbitrary decisions may be made on the part of News Portal Operators. News Media Operators tend to distribute News Content with an excessive emphasis on "Breaking News," which is a relatively clear category among the disclosed criteria, and as a result, we are concerned that misinformation is more likely to occur. Specific factors to be considered as selection criteria should be disclosed from the perspective of improving the reliability of News Content.
  - The selection method and criteria for News Content to be listed in access rankings on News Portals are explained only in vague terms, for example, "It is not a simple ranking of PV numbers, but a unique algorithm." In many cases, News Content that clearly has a large number of PVs on the News Portal is not listed in the access ranking, which, combined with the opaqueness of the selection criteria, gives the impression of arbitrariness in operations.

### <Answers from News Platform Operators >

- We have disclosed our general policy on the quality of information in the News Content we manage, including but not limited to the Top Page, and we have provided News Media Operators with guidelines to ensure a certain level of quality in the distribution of their content.

The specific ideas are generally as follows. We understand that these ideas are widely recognized and shared, including by News Media Operators, but we will continue to carefully explain them, including how content is displayed and how it is posted, and we will continue to make improvements so that users can use our site more comfortably and with peace of mind.

(i) In selecting the contents in the Top Page for Main News Column, the two main criteria are "communality" and "social interest". "Communality" refers to news of high importance that should be communicated to society, such as politics, the economy, and disaster prevention, while "social interest" refers to news that attracts the interest of many people, such as sports and entertainment. Our company creates a place which is used daily by many users in response to "social interest", while delivering high "communality" news widely.

(ii) For user recommendations, News Content that AI judges to be of interest to each user based on the user's past content viewing history and the level of attention and popularity in the world are mainly displayed. Situations where only extremely similar News Content is displayed is avoided via the abilities of AI and actual people, thereby preventing timelines from being filled only with news of major incidents and accidents or news of widespread interest. In addition, by providing a variety of News Content, we expect to broaden the range of users' interests.

Regarding access ranking, we may request modifications to some News Content, suspend publication, or suppress publication on some pages in light of management policies and the Posting Guideline presented to News Media Operators.

The number of PVs is based on the PV data for the last hour on the Details Page (web version only). The PV counts are based on articles submitted in the past two weeks, and are calculated mechanically according to specifications, such as those that do not reflect the number of PVs for News Content viewed via the headlines at the top of the Top Page.

- Our initiatives described in the survey on the digital advertising sector (see below) are being continued.

In addition, the weight given to breaking news is not such that once a story is posted on the Top Page or other Main News Column, it remains there forever. When other media outlets provide News Content with the same content, we optimize this by replacing News Content with more suitable one as needed by re-comparing and re-

evaluating in real time other criteria besides the speed of providing articles, in light of the criteria explained below (such as the "quality of the articles" and the "originality of the news report itself"), and will continue to do so in the future.

(Explanation in the Fact-Finding Survey on the Digital Advertising Sector)

- We have introduced the following mechanisms to ensure fairness in the posting of information on the Top Page and other pages.

1. Publication of articles by editors with an emphasis on public interest and public service

In principle, articles are selected based on their public nature and public interest with editors checking the content of articles. In accordance with policies and guidelines established by staff members with experience in news and media, the selection of articles is based on qualitative judgments while taking into consideration factors such as "article quality" (whether the information is excessive or insufficient, availability of photographs, etc., and clarity, etc.), "originality of the report itself" (whether it is a scoop by a single company, whether it is a quoted report, etc.), "speed of reporting and article distribution" (initial report timing, distribution timing to the platform), and other factors. In addition, articles are checked 24 hours a day and replaced in real time.

2. Publication of articles according to user type using AI

Based on information provided by consenting users, AI derives information that is presumed to be of interest to the user and content that is thought to match the user, and automatically selects and posts articles. By publishing information tailored to each user, this system provides not only highly popular information (sensational information, gossip articles, etc.), but also niche and highly specialized information to a variety of consumers.

By combining the above 1. (manual posting by editors) and 2. (automatic posts by AI), a wide range of information is provided in a manner that ensures publicity and public interest.



- Our company selects News Content through a combination of algorithms and the activities of a content organization team comprised of former News Media Operators and others. In this process, emphasis is placed on a comprehensive evaluation of content, taking into account not only "breaking news" but also factors such as "public nature" and "accuracy". In addition, based on internal standards, we have also implemented an operation to suspend the publication of content if problems are identified after it has been published. We will continue to take appropriate measures to address these issues, as outlined in the materials available to News Media Operators, as well as by providing supplementary explanations when we receive inquiries from these operators.

#### B. Views from competition policy

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For consumers who use News Portals, the most influential factor in selecting News Content is that the headlines of the content are located in an easily viewable position on the News Portal (see Chapter 2.4(1)A). Therefore, for a News Media Operator, from the perspective of obtaining license fee income and a customer influx to their own website by having consumers select their News Content, it is very important that their News Content which is provided to a News Portal Operator is posted in the Main News Column on the Top Page, etc., of the News Portal.

The selection of News Content to be published in the Main News Column is generally determined based on an editorial policy predetermined by the News Portal Operator (see Chapter 3.1(1)A), but since there are restrictions on how much of this content can be published in the Main News Column (see Chapter 2.2(3)), there is competition among News Media Operators to have their own News Content published in the Main News Column.

From the perspective of enhancing fairness and transparency of transactions, and ensuring a fair competitive environment, News Portal Operators are encouraged to clearly indicate the criteria for News Content selection for the Main News Column to News Media Operators with as much specific detail as possible. In addition, when revising the criteria, they are encouraged to provide News Media Operators with a sufficient explanation in advance and indicate specific revisions as well as respond appropriately to their inquiries

### C. Views from the Antimonopoly Act

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News Portal Operators select the News Content to be published in the Main News Column based on their own editorial policies, which are determined based on their own business strategies, etc. Even if specific News Content is not published in the Main News Column as a result of how it is selected, this is not usually a problem under the AMA.

On the other hand, News Media Operators conclude News Content License Agreements with News Portal Operators on the assumption that whether or not the News Content they provide will be published in the Main News Column will be determined based on selection criteria that have been clarified in advance, as described in "A." above. For News Media Operators, the presence or absence of News Content in the Main News Column affects their license fee incomes and the customer influx to their websites.

From this perspective, it would be a problem under the AMA (Abuse of a superior bargaining position) if a News Portal Operator who has a superior bargaining position over a News Media Operator that they do business with, by taking advantage of such position, selected News Content to be posted in the Main News Column based on criteria different to that which was preliminarily given and reduced the chance for News Content of a News Media Operator to be posted, thereby causing an unjust disadvantage to the News Media Operator in light of normal business practice.<sup>121</sup>

#### (4) Restrictions on distribution of News Content

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##### A. Remarks from News Media Operator and answers from News Platform Operators

<Remarks from News Media Operators >
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<sup>121</sup> When a News Portal Operator that has a superior bargaining position to a News Media Operator selects News Content to be published in the Main News Column based on criteria different from the selection criteria disclosed in advance to the News Media Operator, that is the counterparty to the transaction, and thereby causes a disadvantage to such News Media Operator that cannot be calculated in advance, the News Portal Operator shall be deemed to have caused an unjust disadvantage to the News Media Operator in light of normal business practices (see the JFTC, "Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act," Chapter IV. 2(1), (2), and 3(2)).

- We have the impression that the content of the Posting Guideline established by each News Portal Operator is unreasonable, and it is operated in an arbitrary manner. Specifically, these standards state that the distribution of articles on programs broadcasted by the same company is not allowed, while the distribution of summary articles on such programs produced by other companies based on what they have seen on air is allowed. This is unreasonable because it prohibits articles created by the company that produced the program and that can provide an accurate summary with clear rights relations, while allowing articles produced by other companies that cannot guarantee accuracy and have little added value. Furthermore, some companies are allowed to distribute articles based on their own broadcast programs, while others are allowed to distribute articles based on radio programs and publications, and each News Media Operator is judged differently.
- We are required to meet conditions that are not explicitly included in the Posting Guidelines, such as not distributing News Content pertaining to a specific theme without supervision. We feel that News Portal Operators are arbitrarily restricting the News Content that we distribute, as similar News Content from other companies does not comply with these requirements. As a News Media Operator with a weak position against News Portal Operators, we have no choice but to voluntarily restrict the publication of articles that do not meet these conditions, which has led to a decrease in distribution fees that we could have earned and a loss of opportunities for consumers to visit our website through such articles.
- We are sometimes requested by News Portal Operators to withdraw News Content that we have distributed in certain categories, even though there are no contractual restrictions. In effect, the categories available for distribution are limited and the News Content that can be provided is restricted. Whether or not to allow this is left to the individual judgment of the News Portal Operator, and as a News Media Operator with a weak position, we have no choice but to limit the News Content we provide based on our presumption of the News Portal Operator's intentions.
- With regard to the News Content provided to a News Portal, although there was no basis in the contract, the format of expression of News

Content has been unilaterally restricted (e.g., specified to attach video, prohibited to express as cartoon), and as a result, additional costs are required for the distribution of News Content and the number of PVs of such News Content in the News Portal has decreased significantly.

<Answers from News Platform Operators>

- We operate our service so that users can use it with peace of mind, and we strive to deliver to users News Content in each category from News Media Operators with strengths in the relevant fields. When signing a new contract with a News Media Operator, we determine the category after confirming the characteristics, distribution track record, and editorial system of the News Media Operator, and after consulting with them. (Even after a contract is signed, categories may be added or changed based on distribution performance and further discussions.)

In terms of setting distribution categories, we believe that it is important to operate a reliable information distribution platform by preventing, for example, the submission of News Content that seems to lack credibility regarding COVID-19 in a sports category, or the submission of articles by News Media Operators that don't require distribution in the international category that quote foreign media suspected of being foreign government propaganda.

We will continue to provide detailed explanations to News Media Operators in order to gain their understanding of these objectives.

We have established guidelines regarding the submission of articles and request that certain information, such as highly promotional material, not be submitted. The items subject to these guidelines are as disclosed in our management policy.

We will continue to provide careful explanations and continue necessary discussions to ensure transparency and fairness in the application of these rules.

News Media Operators are requested to carefully prepare articles on medical care, etc., from the viewpoint of maintaining article quality and operating our service so that users can use it with peace of mind. This

is due to the risk of irreversible damage to the health of users if they read inappropriate content. The following points are noted in the guidelines for article submission.

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For information on medical care (information on treatment or prevention methods for specific diseases or symptoms), we ask that you make particular efforts to provide objective and accurate information (e.g., clearly indicating the name of the supervising editor, rationale, and information on risks and side effects, etc.).

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While we are striving to ensure transparency in the operation of the above guidelines, we would like to respond appropriately to any specific suggestions regarding the application of the guidelines to similar cases.

We request that News Media Operators provide us with images and videos in a certain format, but we will continue to improve our service in consideration of the convenience of the News Media Operators who provide us with such media.

Our guidelines for submitting articles prohibit extremely small photographs or images on the Details Page, or those that do not conform to our format, or those that are described for the purpose of selling a company's own content (cartoons, books, etc.). On the other hand, cartoon expressions are not uniformly prohibited. For example, if it is difficult to depict the subject or the scene of an interview with actual photographs or videos due to the subject matter to be covered, cartoons are acceptable as well as diagrams and illustrations. We would like to continue our efforts to ensure that News Media Operators understand these points.

- The guidelines you pointed out are presented to each News Media Operator prior to the signing of a contract, and the contract is concluded only after the parties have agreed on the contents of the guidelines. The guidelines in effect can be viewed at any time on the management screen for each News Media Operator. We also respond to inquiries about the content of the guidelines and their application.

With regard to the point that it is not permissible for the same

operator to provide articles about a program they have aired, we may request that sections are revised because they fall under the general prohibitions in the guidelines (e.g., advertising, announcements, advertisements, explicit sexual expressions, etc.), but articles by an operator that are about programs aired by that same operator alone do not fall under this category.

With regard to the point that cartoon expressions are prohibited, we may ask News Media Operators to revise sections because they fall under the general prohibitions (fiction, unfinished articles, etc.) in our guidelines as a News Portal (in principle, news-related information), but cartoon expressions alone do not fall under such prohibitions.

We will consider revisions to the guidelines should we receive feedback. We believe that our clients continue to contract with us based on their understanding of the guidelines and their operation. We will continue to carefully explain the contents of the guidelines and their operation, and consider optimal revisions.

- We also distribute articles on broadcast programs of News Media Operators, depending on the content of the program. On the other hand, when other News Media Operators that do not broadcast such programs create summary articles, we restrict the distribution of these articles provided that we judge that they fall under prohibited items in our guidelines, and there are several cases where distribution in such a manner has actually been restricted. We have explained these measures to broadcast News Media Operators upon request, and we will continue to take appropriate measures.

## B. Views from competition policy

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News Content to be distributed secondarily through News Portals is reviewed by News Portal Operators based on the News Content License Agreement and Posting Guideline (hereinafter collectively referred to as "Posting Guideline-etc.") from the viewpoint of whether or not it is inappropriate in light of socially accepted norms (see Chapter 2.3(1)A(A)). If the News Content provided by a News Media Operator violates the provisions of the Posting Guideline-etc., the News Portal Operator restricts the secondary distribution of the News Content in the

News Portal, or requires the News Media Operator to revise the wording or other aspects of the News Content in order to ensure that it meets the requirements of the Posting Guidelines-etc.

If the Posting Guidelines-etc. remain abstract and vague, it will be difficult for News Media Operators to understand the News Content that can be provided to News Portals, and competition based on the quality of News Content may be inhibited.

From the perspective of enhancing fairness and transparency of transactions and ensuring a fair competitive environment, News Portal Operators are encouraged to clearly indicate the content of the Posting Guidelines-etc. as specifically as possible to contracting News Media Operators. In addition, when revising Posting Guidelines-etc., they are encouraged to provide a sufficient explanation to contracting News Media Operators in advance and to indicate specific revisions as well as respond appropriately to their inquiries.

### C. Views from the Antimonopoly Act

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The decisions of News Portal Operators on what kind of News Content is to be distributed secondarily on the News Portal they operate are based on their own judgment, and it is not usually a problem under the AMA to establish certain standards for News Content to be distributed secondarily on a News Portal, to inform News Media Operators of such standards as guidelines, and to examine the content of News Content based on such guidelines, etc.

On the other hand, News Media Operators provide News Content to News Portal Operators on the assumption that whether or not to distribute it secondarily in a News Portal will be determined based on Posting Guideline-etc., which have been clarified in advance.

For News Media Operators, whether or not the News Content they provide is distributed secondarily on News Portals, can affect their license fee income and the customer influx to their websites. In addition, especially when a News Content License Agreement stipulates a minimum number of News Content to be provided to a News Portal Operator, News Media Operators need to modify their News Content to meet the provisions of the Posting Guideline-etc. to avoid falling below the required minimum submission of News Content. In such cases,

additional costs are incurred due to the need for News Media Operators to revise News Content to meet Posting Guideline-etc. in order to avoid falling below a minimum submission limit.

From this perspective, it would be a problem under the AMA (Abuse of a superior bargaining position) if a News Portal Operator who has a superior bargaining position over a News Media Operator as the other party of a transaction, by taking advantage of such position, and beyond the scope of the Posting Guidelines-etc. that had been preliminarily disclosed, restricted the secondary distribution of News Content to a News Media Operator, or required the News Media Operator to modify the expression method of the News Content, thereby causing an unjust disadvantage to the News Media Operator as the other party of the transaction in light of normal business practice. <sup>122</sup>

## (5) Disclosure of consumer access information

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### A. Remarks from News Media Operators and answers from News Platform Operators

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<Remarks from News Media Operator>

- As data on the attributes and behavior of consumers who view our News Content on News Portals is important information that affects the amount of advertising income, News Portal Operators should disclose this data as well as average data for the whole News Portal to us, so that we can fully analyze such data.

<Answers from News Platform Operators>

- We disclose such data upon request from a News Media Operator. We will continue to respond to such requests.
- “Data on the attributes and behavior of consumers who have viewed

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<sup>122</sup> When a News Portal Operator, which has a superior bargaining position to a News Media Operator restricts the secondary distribution of News Content on a News Portal or requires a News Media Operator, a counterparty to a transaction, to modify the method of expression of News Content on the News Portal beyond the scope of Posting Guideline that has been clarified in advance and thereby causes a disadvantage to the News Media Operator that cannot be calculated in advance, the News Portal Operator shall be deemed to have caused an unjust disadvantage to the News Media Operator in light of normal business practices (see the JFTC, "Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act," Chapter IV. 2(1), (2), and 3(2)).



the News Content of each News Media Operator" is shown on the management screen for each News Media Operator to the extent that can be shown (e.g., estimated user attribute data, delivery visit rate and circulation<sup>123</sup>, number of views of each article, etc.). Based on the requests of each News Media Operator, we have been regularly updating the management screen and enhancing disclosed data and analysis, and we will continue to do so in the future.

In addition, "overall News Portal data" is disclosed on our official website, official blog, press releases, etc., and also announced along with future measures and strategies at strategy briefings, lectures and study groups for News Media Operators, etc., to provide medium- to long-term support. We will continue our efforts in this area in the future.

- Our company discloses demographic and behavioral data on consumers who read articles of News Media Operators on data platforms. We also disclose data on the whole News Portal to the extent permitted by contracts. We will continue to make appropriate disclosures so that News Media Operators can conduct sufficient analysis.

## B. Views from competition policy

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News Media Operators are thought to improve the content and delivery method of News Content based on the reactions of consumers who have viewed previous News Content.

Thus, information pertaining to the reactions of consumers who have viewed News Content is important for news media to produce such content that appeals to consumers.

In this regard, News Portal Operators explained to the JFTC that they disclose information upon requests from News Media Operators, and will continue to do so in response to such requests (see "A." above). In order to realize the disclosure of consumer browsing data, it is considered important that News Media Operator should communicate specific requests for data disclosure to News Portal Operators, and in

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<sup>123</sup> According to explanations from relevant News Platform Operators, the visit rate refers to the ratio of the actual number of visitors to a number of News Content distributed on the day of distribution for a frame that distributes multiple News Content per medium at once, and circulation refers to the number of News Content views on average per visit by a user to the relevant frame.

turn these operators should make their disclosure policy fully known to staff that are in charge of actual negotiations with News Media Operators.

## 2. Issues regarding Internet Searches

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As described in Chapter 2.1(3)B(B) above, in regard to Internet Searches, Internet Search Operators display as search results the headlines and snippets of News Content distributed on websites operated by News Media Operators (primary distribution) and on News Portals operated by Internet Search Operators (secondary distribution). News Media Operators receive a customer influx to their News Media Site through Internet Searches. The following issues are recognized in relation to the use of News Content in such Internet Searches and the display of search results that may affect the customer influx.

### (1) Payment for use of News Content

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#### A. Remarks from News Media Operators and answers from News Platform Operators

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<Remarks from News Media Operators >

- The following use of snippets, thumbnails, and other copyrighted material in Internet Searches may constitute a violation of the intent of the Copyright Act and should be compensated.
  - The Internet Search Result screen plays the same role as News Media Sites, as snippets, thumbnails, etc., are lined up in a list on the screen, going beyond a wayfinding role.
  - Among snippets displayed in search results, in "featured snippets" and "rich snippets", in which information about a linked website is added in addition to a regular snippet, the text and images that most effectively correspond to the search keywords from the linked website are displayed in a way that easily resolves the inputted questions of users, and we recognize that there is an extremely high possibility of this reducing inflows to the original website where the content is posted. While we do not preclude search engines from increasing user convenience, some compensation should be given back to the website creators who originated the information for the cost of creating their website.

<Answers from News Platform Operators>

- In regard to natural searches, we are provided results from other companies, including the display of featured snippets and rich snippets, and we do not believe that the general mechanism of display in featured snippets and rich snippets violates Article 47-5 of the Copyright Act.
- News Content is not a significant contributor to our revenue. In our Internet Search, the percentage of queries in which News Content appears at the top of the search results is very low, and advertisements rarely appear in such search results. On the other hand, we drive a large amount of free traffic to News Media Operators from search results, which they can monetize (through advertising, subscriptions, etc.) on their own websites (News Media Sites).

The use of snippets (including "featured snippets" and "rich snippets") and thumbnails in search results will improve the usability of Internet Searches, increase the attractiveness of News Media Operator content in search results, and increase the likelihood that users will click on them.

Whether a snippet, thumbnail, or video preview is displayed in Internet Search Results is at the discretion of website authors, and they may choose to indicate this by selecting various markup tags that our system can read. For example, as described on our web page, a website author can choose whether or not they want snippets to appear. In addition, as described on our web page, the website author can control the snippet in more detail (e.g., setting the maximum number of characters in the snippet, the size of the thumbnail, and the length of the video preview). At the same time, snippets and thumbnails are only intended to give users an idea of the content of the page and why it is relevant to their query, not to replace the news article itself.

We conducted an experiment to test the impact of News Content on our traffic and revenue. In this experiment, we removed snippets from the search results of News Media Operators, but there was no impact on our Internet Search usage or revenue, indicating that snippets do not independently satisfy demand for News Content consumption that

would otherwise migrate to other news sources without them. Thus, there is no evidence that snippets erode traffic to News Media Sites; rather, snippets generate monetizable click growth.

Article 47-5 of the Copyright Act permits the minor use of copyrighted works through an Internet Search and other means. In enacting this provision, the following points were considered: (i) Internet Search, etc., have social significance in providing new knowledge or information; (ii) the use of copyrighted work by such service is incidental to the main purpose of the service; and (iii) as long as the use of the copyrighted work is only minor, the degree of disadvantage to the copyright holder is small. The use of snippets and thumbnails in our search results meets the requirements of Article 47-5 of the Copyright Act and does not deviate from the intent of Article 47-5 of the Copyright Act, with consideration for improving the user experience and the absence of adverse effects on News Media Operators as described above.

All News Media Sites can control whether their content appears in search results, and how it appears. In particular, websites can determine the following:<sup>124</sup>

- Whether or not to allow the website to be indexed by our crawlers so that it will appear in search results.
- Whether or not to allow us to display snippets and thumbnails of web pages. Websites may block snippets and thumbnails while still appearing in search results.
- If snippets or thumbnails are allowed, the maximum number of characters in the snippet and the size of the thumbnail that we will display.

## B. Views from competition policy

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The most popular way for consumers to find News Content as electronic data is through Internet Search (see Chapter 2.2(1)C).

When consumers search for News Content using an Internet Search,

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<sup>124</sup> For example, Google's website describes a tag that specifies the maximum number of characters in a snippet, etc.

(<https://developers.google.com/search/docs/appearance/snippet?hl=ja>)

they view headlines and snippets of News Content displayed as search results, and if they wish to view more detailed content, they access a website operated by a News Media Operator that is linked via the Internet Search Results to view the News Content.

More than 80% of consumers responded that they often or somewhat often do not access websites operated by News Media Operators that are linked from search results when they use Internet Search to find News Content, and about half of these consumers said that "The search results give me a general understanding of News Content" as the reason for this (see Chapter 2.4(2)C). Considering this result from the Consumer Survey, when consumers use an Internet Search to find News Content, they are thought to often browse only headlines and snippets of News Content which are displayed in search results and that they do not access linked websites operated by News Media Operators to browse the News Content. In other words, it can be said that consumers read News Content to a certain extent by viewing snippets, etc., from an Internet Search.

On the other hand, under the Copyright Act, Internet Search Operators are allowed to use copyrighted works without the permission of copyright holders (so-called "minor use") to the extent deemed necessary for the purpose of the service. However, this does not apply in cases where the use would unreasonably harm the interests of copyright holders in light of the type and use of the work and the manner of such minor use. In this regard, not all use of News Content in Internet Search without the permission of the copyright holder is permitted, and it is understood that the use of News Content in Internet searches is judged from the perspective of whether it conflicts with the market for the use of the News Media Operator's copyrighted work or whether it interferes with potential future sales channels for the copyrighted work (see Chapter 3.3).

With regard to the use of News Content by Internet Search Operators in the form of snippets, etc., News Media Operators have pointed out that the current form of use may constitute a violation of the intent of the Copyright Act and that compensation should be paid. In addition, there are examples of associations of News Media Operators presenting their ideas in light of the Copyright Act regarding the way Internet Search Operators should use News Content in the form of snippets, etc., such as the standard number

of characters for snippets, etc.<sup>125</sup>. On the other hand, according to Internet Search Operators, News Media Operators that operate websites displaying News Content in the form of snippets, etc., in search results, may themselves decide whether or not to display such snippets, as well as the maximum number of characters in a snippet, etc. (see “A.” above).

In light of this situation, Internet Search Operators and News Media Operators are encouraged to reach a common understanding on how News Content should be used by Internet Search Operators in the form of snippets, etc., including the setting of trade terms of compensation, etc., through sufficient negotiations between them.

### C. Views from the Antimonopoly Act

As described in “B.” above, even the use of News Content in Internet Search Results may have a case that it does not constitute a restriction of rights and the copyright holders may exercise their rights in principle.

In such cases, it would be a problem under the AMA (Abuse of a superior bargaining position) if an Internet Search Operator who has a superior bargaining position over the other party of a transaction, by taking advantage of such position, unilaterally set a significantly lower license fee or dealt free of charge, thereby causing an unjust disadvantage to a News Media Operator as the counter party in light of normal business practice.<sup>126</sup>

## (2) Self-preferencing in Internet Search Results

### A. Remarks from News Media Operators and answers from News Platform Operators

<Remarks from News Media Operators >

- (i) The News Frame displayed at the top of natural search results and (ii) search results in the news search tab are designed to display only News Content from News Portals operated by Internet Search Operators. Thus, secondarily distributed News Content on News Portals is displayed in preference to News Content on News Media sites (original articles), which should be prioritized, resulting in a

<sup>125</sup> Q&A on Article 47-5 of the Copyright Act and Use of Newspaper Articles" (December 2021, Japan Newspaper Publishers and Editors Association, Newspaper Copyright Subcommittee)

<sup>126</sup> For the concept of when Internet Search Operators are in a superior bargaining position to News Media Operators, see Chapter 4.1(1)B above.

decrease in the number of users who should visit News Media Sites and a decrease in advertising income for News Media Operators.

<Answers from News Platform Operators>

- In our Internet Searches, a module is posted separately from natural search results according to the search query, and the contents on our News Portal are sometimes displayed in the module. However, the position of the module in such cases varies depending on needs, such as the user's usage situation, and the module does not always appear at the top of the natural search results.

Our news search is provided solely as an in-site search in our News Portal, and no off-site websites will be displayed in the search results.

## B. Views from competition policy

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Internet Search Operators may operate News Portal in conjunction with Internet Search.

In such cases, Internet Search Operators sometimes display News Frames that only contain News Content that they are distributing secondarily on their News Portals, and these News Frames tend to appear at the top of the search results display screen (see Chapter 2.3(2)B).

When consumers select News Content, the way it is displayed in the search results, such as whether it appears in the News Frame or at the top of the search results, is an important factor, and there are some consumers who only browse the News Frame in their actual browsing behavior (see Chapter 2.4(2)). Considering such consumer behavior in selecting News Content, News Portal Operators who operate a News Portal in conjunction with Internet Search could reduce opportunities for users to select News Content posted on News Media Sites by self-preferencing on the search results screen. This can affect the inflow of consumers from Internet Search Results to News Media Site (see Chapter 3.1(2)).

From the perspective of enhancing fairness and transparency of transactions and ensuring a fair competitive environment, regarding the News Content shown in the News Frame displayed in the Internet Search Result and those shown in the natural search result, Internet

Search Operators are encouraged to treat News Content secondarily distributed by themselves and News Content primarily distributed by News Media Operators under the same conditions.

### C. Views from AMA

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According to the Consumer Survey, the most frequently selected services used to find News Content are Google Search and Yahoo! Search, at 28.4% and 26.1%, respectively (see Chapter 2.2(1)C).

It would be a problem under the AMA (Interference with a competitor's transactions, etc.) if an Internet Search Operator influential in the market of services used when searching for News Content<sup>127</sup>, by displaying News Content secondarily distributed on its own News Portal in the Internet Search Results at positions easier to appeal to consumers than those for News Content primarily distributed by News Media Operators (self-preferencing on the search results screen) then interfering with transactions between News Media Operators and consumers<sup>128</sup>, caused foreclosure effect in the market of services used when searching for News Content<sup>129</sup>, in other words, decreased business opportunities for News Media Operators or excluded News Media Operators.

### (3) Opacity of search algorithms

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#### A. Remarks of News Media Operators and answers from News Platform Operators

<Remarks from news media operators >

- Disclosure of information regarding changes in Internet Search algorithms from Internet Search Operators is insufficient. Despite allocating a large amount of resources to responding to algorithm changes, it is difficult to respond with the currently disclosed information alone, and unpredictable algorithm changes cause

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<sup>127</sup> Regarding whether a company is recognized as influential in the market, see Chapter 4.1(2) above.

<sup>128</sup> Although the increase in the volume of inflow to the News Portal of an Internet Search Operator also leads to an increase in the customer influx from such News Portals to the websites of News Media Operators (Distribution [4] in Chapter 2.1(3)), the ratio of the customer influx to these websites of News Media Operators to the number of views of the News Portal is about 8% on average (see Chapter 2.3(1)A(D)b.).

<sup>129</sup> See footnote 101 above for cases where foreclosure effects occur.



unreasonable disadvantages to us, such as a decline in the search display ranking of our website and a significant decrease in the number of PVs and advertising income linked to it.

<Answers from News Platform Operators><sup>130</sup>

- Our company has faced the problem of website operators attempting to make their websites appear more relevant and useful than they actually are by predicting and manipulating the signals on which the search algorithms rely, thereby reducing the reliability of our Internet Search. Our company maintains and develops search algorithms to address such manipulation. Important changes to our algorithms that affect the rankings of websites, including News Media Operators, are published online in advance and we provide extensive information and guidance on our ranking practices.

It is our view that the transparency of algorithms must be useful and meaningful for users, News Media Operators, and others to understand which data is being used and for what purpose, and to get a full picture of how the system is functioning. This means making explicit both the parameters that determine ranking, emphasis, etc., and the relative importance of each parameter.

In a service with large scale operations, it is neither practical nor desirable to consider transparency at the level of line-by-line code changes. Rather, it is important to explain the principles, factors, and signals that determine how our algorithms operate in the real world.

It is critical that there be awareness of the various important trade-

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<sup>130</sup> In the Digital Advertising Report, a similar point was made by News Media Operators, and in response to this, one News Platform Operator provided the following general explanation (Digital Advertising Report, Part 3, Chapter 4.2(1)b(c) [pp. 128-129]).

- We typically announce changes in the search algorithm to improve user experience. On the other hand, we do not provide notifications about algorithmic updates when we are remediating harmful efforts which adversely impact search results in consideration of the purpose of those updates.
- When we receive feedback from News Media Operators concerning changes to algorithms, we may assess whether there are any systematic issues and we will try to resolve them if any are found. If there are none, we ask News Media Operators to review the publicly available guidance our company publishes on measures that could improve ranking.
- We maintain public discussion forums where all webmasters can contact us to discuss search issues, and these are staffed with our employees, including Japanese speaking search experts. In addition, we have also recently established a contact point in Japan for News Media Operators to raise questions or report issues, including search algorithm queries.

offs that must be carefully balanced in order to protect commercially sensitive information and to continue to the fight against bad actors who seek to exploit our commitment to transparency for their own gain. It is important that decisions on how much detail should be disclosed are in the hands of service operators who are well-informed in their outlook and understanding of the actual technology and potential security risks, rather than in the hands of regulators.

## B. Views from competition policy

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Internet Search Operators have made some progress in disclosing information related to Internet Search algorithms, but in the questionnaire and interviews with News Media Operators, some pointed out that search algorithms remain unclear.

In this regard, the Competition Assessment of the Mobile Ecosystem Final Report (June 2023, Digital Market Competition Council) states that "to ensure transparency surrounding changes in key matters related to search engines and to ensure business predictability for website operators, disclosure of key matters is necessary", therefore, steps should be taken in accordance with the directions given in "The Competition Assessment of the Digital Advertising Market Final Report" (disclosure of key matters such as parameters of search engines used to determine website rankings, establishment of a mechanism to respond to complaints and consultations regarding changes in search algorithms, etc., to the extent needed and which is reasonable, etc.) <sup>[131]</sup>.

Internet Search Operators are, even in their relationships with News Media Operators, encouraged to disclose key factors used by search engines to determine the ranking of search results (search engine parameters, etc.) to News Media Operators as much as possible

## 3. Negotiation methods for transaction terms

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### (1) Remarks from News Media Operators

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<Remarks from News Media Operators >

- The customer influx from one specific News Portal accounts for a

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<sup>131</sup> Digital Market Competition Council, "Competition Assessment of the Mobile Ecosystem Final Report" (June 2023), p. 59.

majority of the customer influx to our company's News Media Site, and it is difficult for our company to continue its business without this News Portal. In this situation, even if the News Portal Operator does not respond in good faith to the negotiation of terms and conditions (including how News Content is used) or requests for information on the usage status of News Content, News Media Operators have no choice but to give up on improving the current situation because the business with the News Portal is important to the News Media Operator.

- In this age of digital news distribution, it is essential to provide News Content to News Portals. However, there is a large gap in the bargaining power with News Platform Operators, not only due to disparities in business scale, but also in knowledge on general information regarding legal matters and business terms, and negotiation skills, so no improvement in the current situation is expected. A framework in which small and mid-sized News Media Operators can collectively negotiate is needed.

## (2) Views from AMA

In principle, acts by a business operator jointly<sup>132</sup> with other business operators to: (i) restrict matters that are important means of competition, such as prices; (ii) restrict the entry of new business operators; or (iii) exclude existing business operators, are problematic under the AMA. Therefore, it may be problematic under the AMA for a News Media Operator jointly with other News Media Operators, to decide the price for the use of News Content or to negotiate with News Platform Operators regarding the price.

On the other hand, there are many acts that do not fall under (i) through (iii) above and can be conducted in a manner that does not pose a problem under the AMA. For example, the acts listed in "A." and "B." below would not be problematic under the AMA even if they were conducted by News Media Operators jointly with other News Media Operators.

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<sup>132</sup> The Antimonopoly Act approach described in this section regarding acts conducted by News Media Operators in concert with other News Media Operators applies equally to cases where the actor is a trade association.

Overseas, instead of News Media Operators individually negotiating News Content License Agreements with News Platform Operators, there are some cases<sup>133</sup> where a copyright management business operator negotiates the terms and conditions regarding the licensing of News Content in a lump sum with respect to the News Content of multiple News Media Operators. In Japan, based on the framework of the Act on Copyright Management Service, there is no problem under the AMA for a copyright management service to negotiate with News Platform Operators, including on licensing fees for the provision of News Content by multiple News Media Operators.

#### A. Joint requests to News Platform Operators

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##### (A) Requests for disclosure of data to confirm the basis for license fee calculations

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It has been pointed out that since News Portal Operators do not reveal the logic and data on which the calculation of the license fees actually paid to News Media Operator is based, as well as the amount of the breakdown, it is impossible to confirm whether the fees payable under the News Content License Agreement are correctly paid (see above 1(1)A).

A request by a News Media Operator, jointly with other News Media Operators, to a News Portal Operator to disclose data in order to confirm whether transaction conditions such as those on license fees set forth in News Content License Agreement are being properly executed will not be problematic under the AMA if the actual disclosure of individual News Media Operator data is made on a company-by-company basis.<sup>134</sup>

##### (B) Requests for disclosures of data for the purpose of verifying whether

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<sup>133</sup> In Germany, a license fee is being negotiated between Google and Corint Media, a copyright management organization, for Google's use of News Content based on crawling. ([https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Pressemitteilungen/2022/21\\_12\\_2022\\_Google\\_News\\_Showcase\\_FAQ.pdf?\\_\\_blob=publicationFile&v=4](https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Pressemitteilungen/2022/21_12_2022_Google_News_Showcase_FAQ.pdf?__blob=publicationFile&v=4))

<sup>134</sup> As a reference case study, see "Consultation Cases Concerning the Antimonopoly Act (FY2021)," Case Study 1 (<https://www.jftc.go.jp/dk/soudanjirei/r4/r3nendomokuji/r3nendo01.html>).

### or not to exercise rights under copyright

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As stated in Chapter 3.3 above, the use of News Content by means of snippets, thumbnails, etc., in Internet Search Results is subject to copyright restrictions if it meets the requirements stipulated in Article 47-5, Paragraph 1 of the Copyright Act. Under these circumstances, it was pointed out in interviews with News Media Operators that whether the use of News Content by Internet Search Operators is subject to the restriction of rights under the Copyright Act and whether it meets the requirements under Article 47-5, Paragraph 1 of the Copyright Act shall be verified. In order for News Media Operators to conduct fact-based verification, statistical figures regarding the actual usage of News Content, such as the number of characters in snippets, may be necessary.

It will not be problematic under the AMA for a News Media Operator, jointly with other News Media Operators, to request Internet Search Operators to disclose objective data for the purpose of verifying whether or not they can exercise their rights under the Copyright Act.

### (C) Requests for the execution of News Content License Agreements

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According to the News Media Survey, approximately 40% of News Media Operators responded that they have experienced News Content being used by News Portal Operators who do not have a license. (see Chapter 2.3(1)D.).

A request by a News Media Operator, jointly with other News Media Operators, to a News Portal Operator that is using News Content Headlines-etc. without permission to conclude a News Content License Agreement would not be problematic under the AMA if the actual contract negotiation and conclusion were done on a company-by-company basis.<sup>135</sup>

### (D) Requests for understanding the business environment

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In general, a business, jointly with other businesses, preparing and distributing to its business partners a document that addresses the

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<sup>135</sup> As a reference case study, see "Consultation Cases Concerning the Antimonopoly Act (FY2021)," Case Study 1 (<https://www.jftc.go.jp/dk/soudanjirei/r4/r3nendomokuji/r3nendo01.html>).

plight of the industry is not, by itself, immediately problematic under the AMA.<sup>136</sup> For example, a News Media Operator, jointly with other News Media Operators, preparing and distributing a document to News Platform Operators in order to seek their understanding of the need to tackle changes in the distribution structure of News Content is not in itself immediately problematic under the AMA.

On the other hand, even if the content of such a document is an appeal about the plight of the industry, if its creation triggers competition-restrictive actions among News Media Operators, antitrust issues will arise. Therefore, News Media Operator should be cautious when preparing such documents jointly with other News Media Operators. If the language of the written request includes a request for a change in an important means of competition, for example, by including a specific amount or ratio of increase, there is a strong possibility that this document creation will facilitate a violation of the AMA, such as representing an agreement among News Media Operators to increase license fees or otherwise, so it is necessary to pay attention to such conducts.

#### (E) Requests for layout changes, etc., to improve source recognition

The Digital Advertising Report pointed out that it is important to have a system in which News Media Operators that provide high quality News Content are evaluated fairly and the quality of this content by these operators is ensured through fair competition, then as one such mechanism, it is desirable to clearly indicate the names of News Media Operators that provide News Content.<sup>137</sup> However, News Media Operators have pointed out that, although there have been some improvements, the display of media names is still insufficient.

It is not a problem under the AMA if a News Media Operator, jointly with other News Media Operators, requests a News Portal Operator to change the layout of its News Content so that the content source is more easily recognizable by consumers, such as by expanding the name and logo of each media outlet on the News Portal.

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<sup>136</sup> As a reference case study, see "Consultation Cases Concerning the Antimonopoly Act (FY2007)," Case Study 10 (<https://www.jftc.go.jp/dk/soudanjirei/kakakuseigen/kakaku09.html>).

<sup>137</sup> Digital Advertising Report, Part 3, Chapter 4.4(3) (p. 143).

## B. Collection and provision of information on transaction conditions

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It will not be problematic under the AMA if a business association voluntarily collects general information on past facts related to trading conditions from their constituent businesses, objectively and statistically processes it, correctly shows the distribution and trends of high and low trading conditions, etc., and generally provides such information on trading conditions without indicating the trade conditions of individual businesses in order to provide consumers, members, etc., with information on past trading conditions. This is provided it does not give businesses with common guidelines for current or future terms and conditions of trade. <sup>138</sup> <sup>139</sup>

It will not be a problem under the AMA for a business association of News Media Operators to collect information from those operators regarding the level of licensing fees and the scope of licensing with respect to transactions between News Media Operators and News Platform Operators in a manner that satisfies the aforementioned concept, and to provide such information to News Media Operators, and News Platform Operators which are their counterparties in transactions.

### (3) Consultations with JFTC

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As to whether or not negotiations raise any issues under the AMA, in negotiations with News Platform Operators, including in cases where they jointly conduct such negotiations with other News Media Operators, News Media Operators, etc., may make their own decisions regarding trading conditions, such as license fees for News Content, with reference to (2) above, and may also consult with the JFTC regarding specific acts they intend to conduct. <sup>140</sup> The JFTC will proactively respond to such

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<sup>138</sup> JFTC, "Guidelines concerning the Activities of Trade Associations under the Antimonopoly Act" part II.9-5 (Collecting and offering price-related information to users)

<sup>139</sup> As a reference case study, see "Consultation Cases Concerning Antimonopoly Act (FY2022)" Case Study 7 (<https://www.jftc.go.jp/dk/soudanjirei/r5/r4nendomokuji/r4nendo07.html>) and "Consultation Cases Concerning Antimonopoly Act (FY2020)" Case Study 10 (<https://www.jftc.go.jp/dk/soudanjirei/r3/r2nendomokuji/r2nendo10.html>)

<sup>140</sup> For JFTC's contact points and consultation methods for consultations from businesses, etc., please refer to "Prior Consultation for business activities of business (Prior Consultation System, General

consultations while communicating with related businesses and referring to the content of this report, in order to support efforts to realize a fair business environment in the distribution of News Content via internet and an environment in which consumers can continuously enjoy high-quality News Content.

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Consultation, and Consultation Case Studies)" on the JFTC website.  
(<https://www.jftc.go.jp/soudan/jizen/index.html>)



## Chapter 6. Future actions of the Japan Fair Trade Commission (JFTC)

As the number of consumers viewing News Content on the Internet increases each year, much of the distribution of News Content via the Internet depends directly or indirectly on News Platforms, and the importance of these News Platforms is growing for many News Media Operators.

In light of these circumstances, we conducted this study in order to enhance fairness and transparency in transactions between News Platform Operators and News Media Operators, and in the use of News Content by News Platform Operators, and to ensure a fair competitive environment, thereby contributing to the development of a fair business environment for the distribution of News Content via the Internet and an environment in which consumers can sustainably enjoy high-quality News Content. We have also clarified our views on actions that should be taken by concerned parties from the view of competition policy and actions that may cause problems under the AMA in order to resolve the issues identified through the study.

To ensure that News Platform Operators and News Media Operators work together to resolve issues through negotiations based on mutual understanding, the JFTC will continue to monitor the progress of efforts by these operators while maintaining necessary communications with them. Depending on the future situation of competition in the field of News Content distribution, the JFTC will consider further measures necessary to improve the fairness and transparency of transactions and ensure a fair competitive environment.

In promoting these efforts, we will continue to work in close coordination and cooperation with relevant ministries and agencies, etc., because, as mentioned in Chapter 5 above, copyright issues are involved and there are areas where the government is studying ways to address competition concerns. In addition, as mentioned in Chapter 1 above, various efforts are being made by competition authorities in overseas countries and regions, and the JFTC will exchange opinions with them at various levels, and also make use of opportunities offered by the Organization for Economic Cooperation and Development (OECD), the International Competition Network (ICN), and other organizations to promote continuous collaboration with relevant overseas authorities and develop a competitive environment.

At the same time, the JFTC will strictly and appropriately respond to

concrete cases involving News Platform Operators that become problematic under the Antimonopoly Act (AMA), including conduct pointed out in this report.

In addition, the JFTC will proactively consider and introduce study methods utilizing new technologies, such as scraping for data-analysis as conducted in this Market Study, so that JFTC will be able to gain a more detailed understanding of the business activities of digital platform operators and take more effective measures.

Furthermore, as the competitive environment surrounding News Platform Operators and News Media Operators is expected to further change due to the development of digital technologies such as the rapid spread of AI, including generative AI, the JFTC will pay close attention to the impact of generative AI on competition in the digital market, including markets related to news content distribution via internet.

Finally, this study was conducted from the perspective of enhancing fairness and transparency in transactions between News Platform Operators and News Media Operators, as well as ensuring a fair and competitive environment. It goes without saying that in order to maintain and develop an environment in which consumers can sustainably enjoy high quality News Content, it is important not only to implement competition policies but also to take various actions, including actions by related parties. Since the appropriate provision of News Content to consumers is essential for the development of democracy and contributes to ensuring a fair and competitive environment by enabling consumers to have an independent and rational selection of products, etc., we hope that the environment in which consumers can enjoy high-quality News Content will continue to develop through various efforts in the future.

## Reference 1: Overseas Developments in News Content Distribution

### 1. Enforcement of competition law, etc.

#### (1) France

In November 2019, the French competition authority L'Autorité de la concurrence initiated a case review of Google's changes to its display policy<sup>141</sup> as to the effect that Google only displays content from EU News Media Operators that had agreed for it to be displayed free of charge in Internet Search Results, in response to a move to enact copyright neighboring rights act (see 2(1) below). In June 2022, the authority concluded its review by adopting Google's proposed commitments, including that it would negotiate in good faith on remuneration for the use of subject content in the Internet Search. <sup>142</sup>

#### (2) Germany

In June 2021, the German competition authority Bundeskartellamt (Federal Cartel Office) initiated a case review of Google's plan to integrate its Google News Showcase service into its Internet Search, after designating Google as an operator subject to an ex-ante regulation under the competition law<sup>143</sup>. In December 2022, the review was terminated following Google's offer of remedial action, including clarification that the use of News Content in the Internet Search is subject to separate price negotiations from the Google News Showcase service. <sup>144</sup>

#### (3) Australia

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<sup>141</sup> “Blog Google France: Google News Initiative - Nouvelles règles de droit d’auteur en France : notre mise en conformité avec la loi.” (<https://blog.google/intl/fr-fr/nouvelles-de-lentreprise/impact-initiatives/comment-nous-respectons-le-droit-dauteur/>)

<sup>142</sup> “Decision 22-D-13 of June 21, 2022 - regarding practices implemented in the press sector” (<https://www.autoritedelaconcurrence.fr/en/decision/regarding-practices-implemented-press-sector>)

<sup>143</sup> In Germany, the Competition Act (German Act against Restraints of Competition -Gesetz gegen Wettbewerbsbeschränkungen (GWB) executed in January 2021 introduced regulations that allow the competition authorities to prohibit certain actions, such as self-preferencing and interference transactions, by "operators of outstanding importance to competition in the overall market" in the digital market.

<sup>144</sup> “Improvements for publishers using Google News Showcase” ([https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/21\\_12\\_2022\\_Google\\_News\\_Showcase.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/21_12_2022_Google_News_Showcase.html))

With regard to the News Media Bargaining Code (see 2(2) below), no regulated digital platform operators have been designated as of November 2022; however, the Australian Competition and Consumer Commission (ACCC) has reported that contract negotiations between some major digital platform operators and News Media Operators have resulted in more than 30 contracts being concluded that would have been highly unlikely to have been concluded without the act.<sup>[145]</sup>

## 2. Legislative Affairs

### (1) EU

In the EU, the Directive on Copyright in the Digital Single Market<sup>[146]</sup> was passed in April 2019, requiring EU member states to grant News Media Operators copyright neighboring rights (reproduction and public transmission rights) for the online use of news publications for two years after publication. After the passage of this directive, related laws were amended in France in July 2019 and in Germany in May 2021, granting the above copyright neighboring rights to related News Media Operators.<sup>[147] [148]</sup>

In addition, in Germany, the amendment of the German Act against Restraints of Competition<sup>[149]</sup> (effective June 2017) exempts from the act concerted joint activities between News Media Operators to the extent that they contribute to strengthening the economic basis for competition among media, with the aim of ensuring diversity in the press, but price agreements, regional agreements, etc., are not exempted.

### (2) Australia

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<sup>145</sup> “News media bargaining code” (<https://www.accc.gov.au/by-industry/digital-platforms-and-services/news-media-bargaining-code/news-media-bargaining-code>)

<sup>146</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (<https://eur-lex.europa.eu/eli/dir/2019/790/oj>)

<sup>147</sup> Loi no 2019-775 du 24 juillet 2019 tendant à créer un droit voisin au profit des agences de presse et des éditeurs de presse (<https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000038055554/>)

<sup>148</sup> Urheberrechtsgesetz - UrhG (Act on Copyright and Related Rights) ([https://www.gesetze-im-internet.de/englisch\\_urhg/englisch\\_urhg.html](https://www.gesetze-im-internet.de/englisch_urhg/englisch_urhg.html))

<sup>149</sup> Gesetz gegen Wettbewerbsbeschränkungen ([https://www.gesetze-im-internet.de/englisch\\_gwb/index.html](https://www.gesetze-im-internet.de/englisch_gwb/index.html))

In Australia, the News Media Bargaining Code<sup>150</sup>, which was passed and came into effect in March 2021, stipulates in regard to negotiations between digital platform operators designated by the Minister of Finance and News Media Operators registered with the Australian Communications and Media Authority (ACMA), the obligation to negotiate in good faith regarding the use of News Content, arbitration procedures in the event of unsuccessful negotiations, allowing joint negotiations by multiple News Media Operators through their representatives, etc.

### (3) Canada

In Canada, the Online News Act<sup>151</sup>, which was passed in June 2023, stipulates in regard to negotiations between digital platform operators designated by the Radio-television and Telecommunications Commission and designated News Media Operators that meet certain requirements the obligation to negotiate in good faith, arbitration procedures in case of failure of negotiations, allowing joint negotiation by multiple News Media Operators, the institution of a code of conduct by the authority, etc.

### (4) United States of America

In the U.S., the Journalism Competition and Preservation Act<sup>152</sup>, which includes allowing joint negotiations by small and medium-sized News Media Operators and requiring arbitration by a third party in the event of a failure in joint negotiations, was introduced in Congress in 2023.

### (5) United Kingdom

In the UK, the Digital Markets, Competition and Consumers Bill<sup>153</sup>, which sets out a new framework for digital platform operators designated as having

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<sup>150</sup> Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021 (<https://www.legislation.gov.au/Details/C2021A00021>)

<sup>151</sup> An Act respecting online communications platforms that make news content available to persons in Canada (<https://www.parl.ca/DocumentViewer/en/44-1/bill/C-18/royal-assent>)

<sup>152</sup> Journalism Competition and Preservation Act of 2023 (<https://www.congress.gov/bill/118th-congress/senate-bill/1094>). This is six-year time-limited legislation.

<sup>153</sup> Digital Markets, Competition and Consumers Bill (<https://bills.parliament.uk/bills/3453>). In addition, the Competition and Markets Authority may establish action requirements for each designated entity within the statutory limits in terms of the above three aspects, and may impose corrective action orders and civil fines in the event that such designated entities violate action requirements.

a strategic market position, including the establishment of requirements for action by each designated operator and pro-competitive interventions by authorities in terms of fair trade, open choice, trust, and transparency, was submitted to the British Parliament in April 2023.

In April 2021, the Competition and Markets Authority (CMA) and the Office of Communications (Ofcom) issued a joint recommendation on this new framework<sup>154</sup>. In regard to transactional concerns between digital platform operators and content providers, such as News Media Operators, the recommendation includes the development of action requirements for fair and reasonable compensation for content, consideration for non-advertising revenues in the calculation of such compensation, and disclosure of information needed for this calculation.

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<sup>154</sup> “Platforms and content providers, including news publishers - Advice to DCMS on the application of a code of conduct, November 2021”  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1073411/Platforms\\_publishers\\_advice.\\_A.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1073411/Platforms_publishers_advice._A.pdf))

## Reference 2: Analysis of Self-Preferencing in Internet Search Results

To determine whether self-preferencing is taking place in the display of Internet Search Results, we collected data on the search results of two different Internet Searches by entering "specific words<sup>155</sup>" at about the same time,<sup>156</sup> and analyzed: (i) the status of the display of News Content in the News Frame in Internet Search Results; and (ii) the existence and extent of differences between the search results of the two different Internet Searches.

This analysis was conducted by building a program that automatically conducts searches using specific words, collects data pertaining to those search results, and extracts search results that meet certain conditions from the collected data. The conditions used to extract search results were set by the JFTC under the advice of experts in the field of Internet Search information scraping technology.

The Internet Search Operators operating the Internet Searches that are the subject of the evaluation were not involved in setting the conditions, and the JFTC did not conduct a detailed verification of the accuracy of the methodology used in this evaluation.

### 1. Status of News Content displayed by News Frame

Regarding Yahoo! search which uses News Frame (a type of direct search), in which only News Content within Yahoo! News is displayed, we collected search results when "specific words" were entered, and confirmed the frequency with which the News Frame appeared and the number of News Content<sup>157</sup> displayed in the News Frame. The result was that the News Frame

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<sup>155</sup> Words that were ranked among the "fastest-rising keywords" on Google Trend (<https://trends.google.co.jp/trends/>) at the time this survey was conducted (once a day during the period) were used (maximum 10 words). The same words were used as "specific words" for seven consecutive days, while new words were added each time the survey was conducted.

<sup>156</sup> Data collection was conducted on Google search and Yahoo! search from October 20, 2022 to November 5, 2022. Each collection was made on the search result display up to the second page on a PC web browser, using the same OS user account on the same PC, without logging in to any of the Internet member services.

<sup>157</sup> If there is a section in the source code of the search results screen that contains the string "h3," the section was judged to indicate individual search results (natural search results, the main heading of the direct search frame (the heading of the entire direct search frame), or an advertisement displayed in a manner similar to search results). If such section contains a subsection containing the string "h4," the subsection was judged to indicate "contents in the direct search frame". Next, the URL was extracted from the section containing the string "h3", and the section containing "//news.yahoo.co.jp/search/" in the URL was judged to indicate "the main heading of the Yahoo! News Frame" in the main heading of the

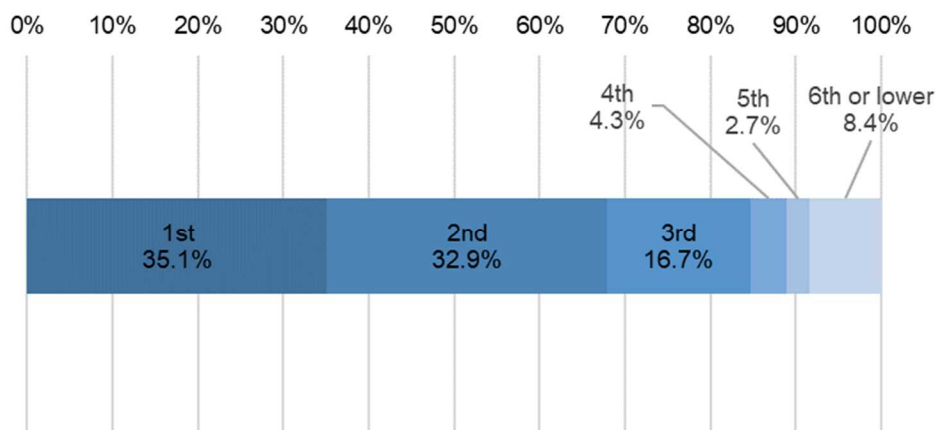
appeared in 65.5% of the search results and the average number of News Content in the News Frame was 2.9 (see Figure Reference 2-1).

In addition, the ranking of the News Frame in the search results (natural search results, major headlines in direct search frames, and advertisements displayed in a manner similar to search results) was checked, and the average ranking was 2.5, and the percentage of each ranking is as shown in "Figure Reference 2-2.

Figure Reference 2-1 Status of display by News Frame in search results

{1} Number of searches conducted during the period	{2} Number of times the News Frame appeared	{3} Total number of contents in the News Frames	News Frame appearance rate (%) [{2}]{1}]	Average number of content in the News Frame [{3}]{2}]
967	633	1847	65.5	2.9

Figure Reference 2-2: Percentage of News Frame rankings in search results



## 2. Comparison of search results in two different Internet Searches

Yahoo! search uses a search engine provided by Google, and we checked whether there were any differences in search results between Yahoo! search

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direct search frame. In addition, URLs were extracted from the subsections containing "h4" in the section indicating "the main heading of the Yahoo! News Frame, and the subsection containing "//news.yahoo.co.jp" in the URL was judged to indicate News Content listed in the Yahoo! News Frame.



and Goggle search which use the same search engines. Specifically, we checked the number of times News Content on the News Media Sites<sup>158</sup> were displayed and the number of times News Content on Yahoo! News were displayed in the natural search results<sup>159</sup> of both Yahoo! search and Google search when a "specific word" was entered.

The difference between Yahoo! search results and Google search result was, in the top 5 natural search results 1.6 points (3.8% in percentage), in the top 10 natural search results 2.1 points (7.3% in percentage), and in the total number of natural search results in the top 2 pages of search results 1.0 point (5.9% in percentage) (see Figure Reference 2-3).

Figure Reference 2-3 Number of Displayed News Content, etc. on the two Internet search results

		Yahoo! Search	Google Search	Differences in Appearance Rate	
				Differences (point)	Ratios (%)
Top 5 Natural Search Results	Number of Cases	{1} Yahoo! News Website	336	294	
	Displayed in	{2} News Media Site	786	714	
	Natural Search	Note: All Natural Search Results	4,065	4,065	
	Appearance Rate of {1} to {2} (%)	$\frac{\{1\}}{\{2\}}$	<b>42.7%</b>	<b>41.2%</b>	1.6
Top 10 Natural Search Results	Number of Cases	{1} Yahoo! News Website	583	490	
	Displayed in	{2} News Media Site	1,914	1,726	
	Natural Search	Note: All Natural Search Results	8,130	8,130	
	Appearance Rate of {1} to {2} (%)	$\frac{\{1\}}{\{2\}}$	<b>30.5%</b>	<b>28.4%</b>	2.1
Top 2 Pages in Natural Search Results	Number of Cases	(1) Yahoo! News Website	748	675	
	Displayed in	(2) News Media Site	4,001	3,822	
	Natural Search	Note: All Natural Search Results	15,033	15,790	
	Appearance Rate of {1} to {2} (%)	$\frac{\{1\}}{\{2\}}$	<b>18.7%</b>	<b>17.7%</b>	1.0

We also tested whether the aforementioned differences between Yahoo! search results and Google search results could be considered statistically significant.

<sup>158</sup> Targeted websites of 580 News Media Operators that provide News Content to Yahoo (calculated based on domain names regarding the operators listed on the webpage at the URL below as of November 21, 2022.) (<https://news.yahoo.co.jp/media>)

<sup>159</sup> In Yahoo! search, the search results extracted by the method described in footnote 157, excluding the following, were judged to be natural search results: (a) those judged to be the main heading of a direct search frame (those including “//news.yahoo.co.jp/search/”, “//search.yahoo.co.jp/realtime/search?”, “//shopping.yahoo.co.jp/search?” etc.); and (b) those judged to be advertisements displayed in a manner similar to search results (those containing the character string “sw-Cite\_\_icon” the source code). In Google searches, sections in the source code of search result screens that contain the string “div.kCrYT” were judged to be natural search results.

We tested whether the search results of the two groups could be said to be significantly different in a statistical sense with the analysis method of the Wilcoxon rank sum test<sup>160</sup>, a nonparametric test<sup>161</sup> as the analysis method, since the distribution of the population is unknown for the number of Yahoo! News websites and News Media Sites displayed as natural search results for each Internet Search under analysis.

In this analysis, Wilcoxon rank-sum tests were conducted on a total of six different data sets for (i) the top five natural search results, (ii) the top ten natural search results, and (iii) the top two pages of natural search results, with the aggregation based on each day of the data coverage period and the aggregation based on "specific words" as units<sup>162</sup>.

The results showed that in any case, there was no statistically significant difference between the Yahoo! search results and the Google search results.

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<sup>160</sup> The Wilcoxon rank-sum test is a method of testing for two groups of populations of data based on their rank (a value indicating how many positions they are in when ordered by size) from each value of the data. In this test, the null hypothesis "The two populations are in the same position." and the alternative hypothesis "The two populations are in different positions. If  $p \geq 0.05$ , the two populations are not different, and if  $p < 0.05$ , the two populations are different.

As a precondition for conducting the Wilcoxon rank sum test, the variances (distributions) of the data of the two groups being compared must be equal (equal variances). In this analysis, the equal-variance test (Variance ratio test) was used to confirm that the equal-variance property was satisfied.

<sup>161</sup> A method of statistical testing without assuming a particular distribution, as opposed to a method based on the assumption that the population data follow a particular distribution (parametric method), such as the t-test. It is used when the distribution is asymmetric or there are outliers.

<sup>162</sup> When aggregating data for each "specific word," there were cases where the same "specific word" existed on different dates, and the duplicates were removed when the data set was constructed.

## Glossary

The following is a list of terms that are characteristic of the News Content distribution field and those defined in this report. The latter are indicated by "\*" at the end of the term.

### C

#### **Canonical tag**

A HTML tag that specifies which web page should be given priority in web pages containing duplicate content.

#### **Consumer Survey\***

A questionnaire survey for consumers conducted in this study

#### **Consumer sales income**

Sales from the sale of News Content to consumers, such as subscription services and single sales of News Content offered on the company's News Media Site or on websites and apps of other companies

#### **Crawl**

Using an automated program called a crawler and visiting webpages by following links in order to build a database (index) that has the purpose of facilitating the reflection of content (text, images, videos, etc.) on a web page to Internet Search Results

#### **Curation service**

A service that aggregates multiple News Content from different sources and displays them in an organized manner

#### **Customer influx\***

Transferring consumers to another website by a link attached to a headline or snippet

### D

#### **Details Page**

A page in a News Portal that displays the full text of News Content

#### **Digital advertising**

Advertisements displayed on search results screens of Internet Searches, social media screens, websites, etc. (Internet advertisements)

### **Digital Advertising Report\***

Final Report Regarding Digital Advertising published by the JFTC in February 2021

## **H**

### **Headlines-etc.\***

Headlines and parts of text and images of articles

## **I**

### **Intermediate Page**

A page in a News Portal on which a part of the main body of the News Content, its commentary, etc., are displayed

### **Internet Search\***

Internet search services

### **Internet Search Operator\***

Businesses operating Internet Searches

### **Internet Search Results\***

Results of a search based on a query (keyword for search) entered by a user in an Internet Search

## **L**

### **License fee\***

Monetary compensation paid by News Portal Operators to News Media Operator for a license to use News Content

### **Link\***

URLs of other web pages posted on a web page

## **M**

### **Main News Column\***

A posting place at the top of the screen of the Top Page where consumers can

easily view them, where headlines of some News Contents selected by the News Portal Operator are displayed under titles such as "Major News" or "Topics"

**Media Usage Survey Report\***

"Survey Report on Information and Communications Media Usage Time and Information Behavior," prepared annually by the Institute for Information and Communication Policy, Ministry of Internal Affairs and Communications

**Minimum Guaranteed Amount\***

In setting the license fee, a minimum amount to be paid regardless of the actual amount calculated based on the established calculation method

**N**

**Natural search results\***

A portion of Internet Search Results that show the results of a pure search for external content, excluding advertisements and proprietary content

**News Content License Agreement\***

An agreement regarding a license to use News Content entered into by and between a News Portal Operator and a News Media Operator

**News Frame\***

A frame in the display of Internet Search Results that displays multiple News Content together in a single frame

**News Media Operator\***

Businesses that edit and provide News Content based on their coverage

**News Media Responses \***

Responses from News Media Operators to the News Media RFI

**News Media RFI \***

Written requests for information made to each of the 10 News Media Operators (20 in total) that had the highest or middle-ranking trade amounts with News Platform Operators in this study

**News Media Site\***

News websites or news apps operated by News Media Operators

**News Media Survey\***

A questionnaire survey for News Media Operators conducted in this study

**News Platform\***

News Portals and Internet Searches

**News Platform Operator\***

Businesses operating News Platforms

**News Platforms Responses \***

Responses from News Platform Operators to the News Platforms RFI

**News Platforms RFI \***

Written requests for information made to seven News Platform Operators in this study

**News Portal\***

A service that displays only Headlines-etc., from multiple News Content of different providers side by side and distributes the full text of that News Content or provides URL information of News Media Sites that carry the full text of that News Content

**News Portal Operator\***

Businesses operating News Portals

**Number of PVs\***

Number of times a page has been viewed

**O**

**Old Copyright Act\***

The Copyright Act before the amendment of the Copyright Act in 2008

**P**

**Posting Guideline\***

Guidelines established by News Portal Operator that stipulate conditions and

criteria for posting News Content licensed by News Media Operators on a News Portal

**Posting Guideline-etc.\***

News Content License Agreement and Posting Guideline

**Principal News Format Display\***

Headlines of News Content from different news sources displayed side by side as a News Portal's principal content

**PV\***

Page views

**Q**

**Query**

Keyword for search

**R**

**Related News\***

News Content on a News Media Site linked by a News Portal's Details Page, where full text of News Content is displayed along with the headlines of related News Content and links to their full text on News Media Sites

**Related News Format Display\***

Display of headline on a News Portal with Related News Links

**Related News Links\***

Links provided on a News Portal to the full text of Related News on News Media Sites

**Revenue sharing**

A method of paying to News Media Operators as license fees the amount earned from digital advertising that is displayed in conjunction with News Content, multiplied by a contractually defined percentage (prorated)

**S**

**Self-preferencing on the search results screen\***

News Portal Operators that operate a News Portal in conjunction with an Internet Search, and which give priority to their own News Content in the display of Internet Search Results by, for example, using News Frames that display only News Content on their own News Portal

**Snippet\***

An excerpt of News Content displayed as a result of a search query entered by a user in an Internet Search

**T**

**Thumbnail\***

Sample of a reduced version of an image

**Top Page**

A page on which only headlines and thumbnails of News Content are displayed side by side

**W**

**Web page**

Individual information pages that make up a website