

The Result of the Review on the Integration of Microsoft Corporation and Activision Blizzard, Inc.

I. Parties Group

Microsoft Corporation is a company headquartered in the U.S. that is engaged primarily in the PC operating system (OS) provision business. Activision Blizzard, Inc. is a company headquartered in the U.S. that is engaged primarily in the game development and publishing business. In these investigation results, the terms in the left column of the table below will be stated as set forth in the right column.

Left column	Right column
Microsoft Corporation	Microsoft
Group of companies already linked together with Microsoft as the ultimate parent company.	Microsoft Group
Activision Blizzard, Inc.	Activision
Group of companies already linked together with Activision as the ultimate parent company.	Activision Group
Two companies combining Microsoft and Activision	Parties
Group of companies with Microsoft and Activision combined	Parties Group

II. Overview of the present case and relevant provisions of law

In the present case, the Parties Group plans to integrate Microsoft and Activision by share acquisition and merger (hereinafter referred to as the “**Transaction**”).

The relevant provisions are Article 10 and 15 of the Antimonopoly Act.

III. Background of the JFTC Review, etc.

1. Background of the JFTC Review

The Parties made public their plan for the Transaction on January 19, 2022, and after that day, they voluntarily submitted written opinions contending that they did not consider that the Transaction would not substantially restrain competition and the relevant materials to the Japan Fair Trade Commission (“JFTC”). Upon the request of the Parties Group, the JFTC exchanged opinions with the Parties Group on several occasions.

The JFTC carefully examined the contents of the written opinions and materials, and conducted interviews with competitors and customers. In addition, the JFTC carefully examined the set of materials that were actually used at various meetings such as board of directors meetings whose submission was requested by the JFTC to the Parties Group, as well as the Parties Group’s internal materials pertaining to competition analysis regarding the Transaction.

Subsequently, on March 10, 2023, the Parties Group submitted notifications of the plan concerning the Transaction in accordance with the relevant provisions of the Antimonopoly Act. The JFTC accepted the notifications and commenced Phase 1 review. Based on the notifications of the plan and written opinions and materials submitted by the Parties Group, as well as the result of interviews with competitors and customers and economic analysis, the JFTC proceeded with the review of the competitive impact of the Transaction. In addition, the Transaction was also reviewed by overseas competition authorities and the JFTC exchanged information with the UK Competition and Market Agency, the European Commission, the Korean Fair Trade Commission, the Australian Competition and Consumer Commission and the U.S. Federal Trade Commission in the course of the review.

2 Seeking information and comments from third parties

This case is a business combination with many interested parties in complex markets in which major changes are expected. For this reason, the JFTC sought information and comments concerning the Transaction from third parties between June 16-July 15, 2022. This resulted in various information and comments being submitted by businesses and individuals, and the JFTC considered this information and comments when conducting its review of the Transaction.

3 Viewpoint of Review of the Transaction and Summary of the Result of the Review

The Microsoft Group, in addition to producing and selling OS software for PCs (Windows) and game consoles¹ (Xbox), also is in the business of developing and publishing PC, game console, and mobile games, and it sells and distributes games on the online stores it owns and operates (Microsoft Store and Xbox Store). It also conducts other businesses such as the business of providing cloud services (Microsoft Azure²) and a digital advertising business, among others.

The Activision Group conducts development and publishing business for PC, game console and mobile games, and in addition to selling and distributing games on the online store it owns and operates (Battle.net), it supplies games for the game consoles and the like of the Microsoft Group, Sony Interactive Entertainment LLC. (“Sony”), and Nintendo Co., Ltd. (“Nintendo”). Of the

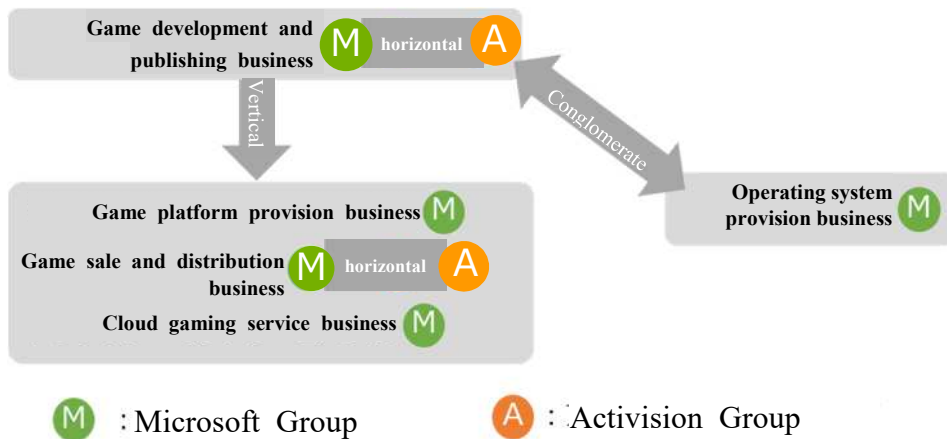
¹ Game consoles, such as Xbox Series X/S of Microsoft Group, Play Station 5 of Sony and Nintendo Switch of Nintendo, are hardware exclusively used for playing games.

² Microsoft Azure provides IaaS and PaaS platform cloud services via the Internet. IaaS (infrastructure as a service) is a service that creates an entire infrastructure environment such as CPU, OS, storage, hardware and network environment in a virtualized environment and provides it via the Internet, which enables users to expand storage, etc. without physically increasing on-premises servers itself. PaaS (platform as a service) are services that provide an environment for operating applications via the Internet, and can be used for development of application software, among other things.

games provided by the Activision Group, the Call of Duty series is particularly popular.

Based on the above, the JFTC intensively reviewed a horizontal business combination of the game development and publishing business and the game sales and distribution business in which the Parties Group is in a competitive relationship, and also intensively reviewed a vertical business combination based on the relationship of the Microsoft Group game platform provision business, game sales and distribution business, and cloud gaming service provision business with the Activision Group game development and publishing business. The JFTC also intensively reviewed a conglomerate business combination based on the relationship between the OS provision business of the Microsoft Group and the game development and publishing business of the Activision Group.

Figure 1: Outline of types of business combination in the present case



With respect to the Transaction and data accumulation, the JFTC concluded that the Transaction would have no impact on competition as the data acquired through the Parties' Corporate Groups' services does not contain information for specific categories, and even compared to competitors, is not expected to offer a competitive advantage to the Parties' Corporate Groups with respect to data volume, scope or collection frequency.

As a result of the review, as will be explained in Section IV through VIII, the JFTC concluded that the Transaction would not substantially restrict competition.

IV. Outline of products and services, etc.

1 Business of providing game platforms such as game consoles

(1) Outline of game platforms

Consumers normally need to use a game platform such as a game console, PC, or mobile device (smartphone, tablet) to play a game. Of these, mobile devices generally do not possess the computing power or memory capacity of PCs and game consoles, so compared to PC and game console games, games for mobile devices have a lower level of graphics

and sounds, and their in-game available functions are more limited. In the past, game consoles had lower computing capacity compared to PCs, but the latest game consoles contain similar CPUs to PCs, meaning there is almost no difference in the graphics and the sound, etc. of games for PCs and game consoles.

In the Parties Group, the Microsoft Group manufactures and sells the game console Xbox Series X/S (released November 10, 2020).

Game platform providers install in their own platform OSes (see (2) below) for each platform equipped with functions to allow games to be played on that platform.

(2) Outline of OS installed on a game platform

An OS is software that provides basic functions commonly used by most application software, including games, and manages the overall computer system. As to OS for PCs and mobile devices, OS providers develop OSes and license them for free or for a fee to other PCs and mobile devices manufacturers. On the other hand, as to OS for game consoles, the game console manufacturer itself develops its own OS and installs that game console OS that it has developed itself only in its own game consoles.

The Microsoft Group develops OS for PC and game console. It installs PC OSes in its own PCs and licenses its PC OSes to other PC manufacturers, but installs its game console OS only in its own game consoles.

2 Outline of game development and publishing business, etc.

(1) Game development

When developing a game, game developers use game development tools (including game engine, audio and video middleware, etc. and other tools) to design, program and test games. Features provided by game development tools include 2D and 3D rendering engines³, physics engines for collision detection and collision response, sound, script, memory management, localization support, etc. Developing games that can be played on each platform requires the use of game development tools provided by game platform providers and OS providers⁴, and in practice, the Microsoft Group enters into game development license agreements with game developers and provides game development tools for Windows and Xbox.

³ Software components that process image data and generate specific animation, etc.

⁴ There exist OS providers for game console such as the Microsoft Group, Sony, Nintendo, etc., and OS providers for PC and OS providers for mobile such as the Microsoft Group, Apple Inc., Google LLC, etc.

The Parties Group develops various PC, game console, and mobile games. The following are examples of game titles developed by the Microsoft Group.

<PC and game console games>

- Minecraft (sandbox game⁵)
- Forza Horizon (racing game)
- Halo (action shooting game)

<Mobile games>

- Fallout Shelter (simulation)
- The Elder Scrolls: Blades (action role playing game)

The Activision Group also develops various PC, game console, and mobile games. The following are examples of game titles developed by the Activision Group.

<PC and game console games>

- Call of Duty (action shooting game)
- Overwatch (action shooting game)

<Mobile games>

- Candy Crush (puzzle game)
- Hearthstone (role-playing deck-builder game)

(2) Game publishing

Game publishers sell games that they themselves have developed or that they have commissioned an external game developer to develop (“**Third-Party Developer**”) in the form of media such as physical cartridge and compact disc (“a packaged product”) at electronics retail stores and manage licenses for digital distribution to consumers via an online store, and also advertise and market games.

When selling a game that the game publisher has developed by commissioning to a Third-Party Developer, the game publisher and the Third-Party Developer execute a development and publishing agreement, and royalties stipulated in the agreement are paid to the Third-Party Developer.

The Microsoft Group and the Activision Group both develop their own games as above (called a “first-party game”) and also publish games developed by Third-Party Developers.

Some games developed and published by the Microsoft Group are sold and distributed as games exclusively for the Xbox (exclusive title⁶), but most of the games developed and

⁵ Sandbox games are games in which no specific goal to reach or task to complete is given, and the user plays by freely collecting items and arrange them, etc. within the game space.

⁶ Titles unique to the Microsoft Group include Forza Horizon 5 (released 2021) and Halo Infinite (released 2021).

published by the Microsoft Group are sold and distributed as games that can be played on games consoles, etc. of other companies. Some PC games developed and published by Activision are distributed solely on Battle.net, but the majority are distributed on online stores of other companies.

(3) Relationship between game development and game publishing

As explained in (2) above, game publishers may themselves develop games, and major game publishers usually own a game developer.

In the past, when sales were dominated by packaged products, small and medium-sized Third-Party Developers which sold games without going through game publishers faced manufacturing and marketing limitations. However, with sales by digital distribution now becoming mainstream, since sales are possible at a lower cost compared to packaged products, there are more so-called indie games that are sold by Third-Party Developers without going through game publishers.

3 Game sales and distribution business

(1) Outline of game sales and distribution business

In the past, games had been sold at physical electronics retail stores, etc. in the form of Packaged Products, but are recently sold as electronic data by digital distribution methods such as download via online stores⁷, digital distribution with free basic play but paid additional features, and fixed-rate subscription services. Recently, in addition to the sale and digital distribution of the main game as a Packaged Product, expanded game content and items are increasingly sold as downloads.

The sale of Packaged Products requires the equipment to manufacture physical media and inventory storage locations, etc., whereas with digital distribution, electronic data can be directly uploaded to an online store, and the game user can download or stream it from there. The three types of digital distribution are outright purchase distribution, multi-game subscription service, and freemium model, which are summarized below.

Outright purchase distribution	Outright purchase distribution <u>allows users to choose the game they wish to purchase, and by paying the fee for that game, save the game from the network to a device (storage) and play it.</u> As game
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⁷ In addition to the method of purchasing the game on and downloading it from the online store operated by the game console providers, etc., there is the method of purchasing a digital download code sold by a physical store, entering it at the online store operated by the game console providers, etc., and downloading the game.

	<p>play uses the game files saved on the device, once downloaded, the game can be played without any Internet access, but the device requires memory storage capacity to save the downloaded game.</p> <p>The outright purchase service is a specific charge system where the user pays a fee for each game, etc. purchased.</p> <p>PC games are generally dominated by outright purchase distribution by third parties who handle the products of an OS provider, a game developer/publisher, and multiple game developers/publishers. Game console games are generally dominated by outright purchase distribution by game console providers.</p>
Multi-game subscription service	<p>Multi-game subscription services <u>allow users to pay a monthly or annual set fee and in return access games that they like from a catalogue that includes the latest games with no specific time restriction.</u> Multi-game subscription service games are distributed by the user downloading the game from a network and saving it onto a device and playing it, or by streaming the game that they want to play from the Cloud while connected to the Internet.</p> <p>Multi-game subscription services for each platform are generally provided by game console providers, operating system providers, and game developers/publishers.</p>
Freemium model (partial charge system)	<p>The freemium model <u>basically is providing games at a zero upfront fee to users,</u> but with limitations such as in-game advertising, and some restricted features within the game. Depending on the game, the purchase of in-game items may be required to play the game more comfortably. In other cases, the additional content is purely cosmetic such as for game characters. Mobile games are generally dominated by the distribution of freemium games by OS providers.</p>

Of the Parties Group, the Microsoft Group owns and operates the online stores Microsoft Store and Xbox Store, and digitally distributes various PC and game console games by outright purchase, multi-subscription service and freemium. There is no registration fee for Microsoft Store and Xbox Store, and Microsoft Store can be accessed by PC app or web browser, while Xbox Store can be accessed by PC app, web browser, and Xbox. The Microsoft Group also offer the multi-game subscription service Xbox Game Pass, comprising three different plans (Game Pass Ultimate, PC Game Pass, Console Game Pass)

depending on the scope of usable platforms and the features. Of these, Game Pass Ultimate covers all services offered by PC Game Pass and Console Game Pass, as well as a multi-player⁸ subscription service (Xbox Live Gold) and cloud gaming service (Xbox Cloud Gaming), enabling users to seamlessly share the same game on multiple platforms by accessing an app or web browser for cloud gaming service games⁹.

The Activision Group owns and operates the online store Battle.net which offers only PC First-Party Games and digitally distributes games from various genres by outright purchase and freemium model. Registration for Battle.net is free, and can be accessed by PC app and web browser¹⁰.

(2) Cloud gaming service

When a game is downloaded onto a platform such as a game console, etc., the game file is accessed on a remote server, a local digital copy of the game created, stored, and transferred to the platform such as the game console on which it will be played. Normally the game can be played only on the platform it was downloaded to. By contrast, on a cloud gaming service, basically the game is run on a remote server and data such as game images and music, etc. will be streamed to the platform of the user through the Internet, with the game saved on the cloud rather than the platform itself. This offers cloud gaming service users the benefit of playing the game without waiting for it to download, and not using the memory capacity of the device to play the game. Also, cloud gaming service users now can play PC games and game console games on platforms such as low end PCs and mobile devices, etc. with lower computing power and graphic capabilities, permitting playing by seamlessly sharing the same game data on multiple types of platforms.

Due to faster Internet speeds, in addition to cases where cloud gaming services that have emerged in recent years are offered as a standalone service, there are cases where they are packaged together with a multi-game subscription. The Japanese cloud gaming market is expanding, and may show significant growth and change in the future.

4 Network effect in markets surrounding game-related businesses

For game platform provision businesses and game distribution and sale businesses, the more users (consumers) use a product (game console, etc.) or service (games distribution service), the more

⁸ A feature for online competition with other users who can connect to the Internet.

⁹ Xbox Cloud Gaming is only provided as a service included in Game Pass Ultimate, and not as a separate service. Users can play Xbox Cloud Gaming games by connecting a controller to a mobile device using Bluetooth, or for games with a touch interface, by touch operation without connecting to a controller.

¹⁰ Battle.net can be accessed from mobile apps, but features are limited to social features such as chat among players.

incentives game developers/publishers have to provide diverse game contents. In the same way, the more diverse game contents are offered, the more attractive these products and services become to users, and a market with a so-called two-way indirect network effect is conceivable. For this reason, the above indirect network effect also must be taken into consideration when examining competitive impacts on markets surrounding game-related businesses.

V. Definition of a particular field of trade

1 Game platform (PC, game console, mobile device) provision business

(1) The scope of product and service

A Demand substitutability

Game platforms are divided into three types: PCs, game consoles, and mobile devices. Although the three types of platform have in common the fact that they are needed to play games, in addition to having differences in performance, functions, and operability, in response to these differences, there are differences in playable games. For this reason, it is conceivable that game-playing consumers use the three types differently to some extent. This means that demand substitutability between the different types of game platforms is limited.

B Supply substitutability

Although there are business operators such as the Microsoft Group that manufacture multiple types of game platforms, the technology and expertise, etc. required for the manufacture of each type of platform differ, and it is not easy to switch from the manufacture of a specific type of platform to the manufacture of another platform category.

This means that no supply substitutability is found between the different types of game platforms.

C Summary

From the above, no substitutability is found between differing types of game platform.

The Microsoft Group manufactures and sells PC and game console as game platforms. As set forth in Section IV-1(2), for PCs, OS providers develop the OS and license it to other PC manufacturers, and the OS developed by the Microsoft Group is supplied to other PC manufacturers. It is conceivable that the status of the Microsoft Group in PC provision business has limited impact on competition in the market of PC provision business because there are many competitors who have higher market shares than the Microsoft Group in PC manufacturers. On the other

hand, as set forth in Section VII– 5(2), it is presumed that the Microsoft Group has high market share in the OS for PCs market, with respect to PCs, OS provision business is thought to be affected by this case. since Therefore, the scope of game platform products and services will be defined as the “Game Console Provision Business,” and the OS provision business will be examined in 2 below.

(2) Geographic scope

Most domestic users purchase each type of platform through online sales at the Japanese website of each type of platform manufacturer, etc. or sales at a physical electronics retail store in Japan. Accordingly, it is conceivable that the range in which Japanese users shop around for each type of platform is basically limited to Japan. Thus, the geographic scope of each type of platform is defined as “Japan.”

2 OS provision business

(1) The scope of product and service

A Demand substitutability

OSes loaded on game platforms are developed exclusively for each type of platform according to the performance, functions and operability of each type of platform as in 1(1) above. Accordingly, for the manufacturers of each type of platform who are the users, no demand substitutability is found between OSes for different types of platforms.

B Supply substitutability

The application software controlled by an OS differs depending on the performance, functions and operability of each type of platform as in 1(1) above, and as programming, etc. is required for such control, different technology and expertise is required for the development of OSes for different types of platforms. Accordingly, no supply substitutability is found between OSes for different types of platforms.

C Summary

From the above, no substitutability can be found between OSes for different types of platforms.

Since the Microsoft Group develops and supplies OSes for PCs, the scope of products and services is defined as the “PC OS Provision Business.”

(2) Geographic scope

PC OS providers including the Microsoft Group supply PC OSes globally, and global users indiscriminately purchase PC OSes from global PC OS providers. Given the nature of OS products and services, there are no transport costs, etc., and there is little difference in licensing by country.

For this reason, the geographic scope of PC OS Provision Business is defined as “worldwide.”

3 Game development and publishing business

(1) Scope of product and service

A Game development and game publishing business

As mentioned in Section IV-2(3) above, when sales of Packaged Products were the norm, facilities for the manufacture of Packaged Products and expertise for securing sales routes was required when selling games, so it was normal for small and medium-sized game developers to sell games via game publishers in order to secure manufacturing costs and expertise. However, in recent years, the ability to sell games via digital distribution has increased the supply from developers themselves to businesses that own and operate online stores and multi-game subscription service providers.

Further, as mentioned in Section IV-4 above, businesses that own and operate online stores and multi-game subscription service providers consider not only the games published by game developers, but also games sold by small and medium-sized game developers without going through game publishers as a substitute option from the perspective of offering an extensive lineup, and are purchasing a wide-range of games from such developers.

Accordingly, substitutability can be found between games published by game publishers and games sold by game developers without going through game publishers, and the scope of products and services in this case is defined as the “Game Development and Publishing Business” for both of the game development business and game publishing business.

B Substitutability between games for different types of platform (PC, game console, mobile device)

(A) Demand substitutability

The Microsoft Group’s online store and multi-game subscription service provides PC and game console games, but normally, with respect to games for differing types of platforms, the users that are business operators that own and operate online stores and multi-game subscription service providers basically

provide online stores and multi-game subscription services that are for one type of platform, based on the demand of the consumer who is the ultimate user.

Therefore, there is only limited demand substitutability between games for PC, games consoles, and mobile devices.

(B) Supply substitutability

As set forth in Section IV-1(1) above, there is now almost no difference in graphics and sound, etc. performance for the latest game consoles and PCs in terms of the purpose of playing games, and there is common expertise for the development of PC games and game console games. In practice, the same game is often developed for both PC and game console. In the development and publishing of a game, a game that was developed for a specific category of platform is sometimes ported so that it can be played on another type of platform. Although the porting of a game requires work and cost such as rewriting of programing language, graphic adjustments, and acquisition of license agreements for game development, etc., it is possible to do with less investment than creating a game from scratch. Porting is often undertaken between PCs and game consoles, which as mentioned above have little difference in performance, and between the different models of game consoles. Therefore, a certain level of substitutability of supply can be found between PC games and game console games.

On the other hand, as mentioned in Section IV-1(1) and 3(1) above, compared to mobile games, PC games and game console games make use of more advanced graphics and sound, etc., and premised on being sold mainly by outright purchase, have complicated operability and contents. Mobile games are often developed with lower-level graphics and sound compared to PC games and game console games, and often have a simpler touch user interface and contents based on generation of revenue through the freemium model and touch operability.

Thus, there is little shared expertise between PC games and game console games on the one hand, and mobile games on the other, and it is difficult for PC game and console game developers/publishers to develop and provide mobile games without incurring substantial added costs and risks, and by the same token, it is difficult for mobile developers/publishers to develop and provide PC games and game console games without incurring substantial added costs and risks.

Therefore, there it is conceivable that there is only limited supply substitutability between games for mobile devices and games for PCs and game consoles.

C Substitutability between games of different genres

Games are sometimes divided into different genres based on story development, operation method, or the like. Game genres include action, adventure, role playing games, sports, strategy, etc., and some games combine aspects from multiple genres. The consumer that is the end user generally does not play only games within a specific range of genres, but alternates between playing games from multiple genres. This means that the users who are business operators that own and operate online stores and multi-game subscription service providers, from the perspective of securing an extensive lineup based on consumer demand, consider all genres of games as alternative choices, and procure games from a wide range of genres.

Therefore, demand substitutability can be found between games of different genres.

D Substitutability between games of different types

Other than by genre, games can be divided by type based on development and marketing costs, the complexity of their content, and the like. Game types include AAA and casual, etc., with AAA games generally having been developed with a large budget and personnel cost over a long period of several years and are sold for use on multiple types of platforms. By contrast, casual games have relatively simple operation methods and user interfaces, etc., and the budget and personnel costs for development are low. Game type differentiation is based on factors such as development and marketing cost scale, game contents, as well as the number of units sold and name recognition, and the differentiation is fluid and unclear. The consumer who is the ultimate user generally does not play only games of a specific type, but alternates between playing various types of games. This means that the users who are business operators that own and operate online stores and multi-game subscription service providers, from the perspective of securing an extensive lineup, consider all types of games as alternative options from the perspective of offering an extensive lineup, and procure broad types of games.

Therefore, demand substitutability can be found between different types of games.

E Summary

From the above, substitutability can be found between games of different genres and different types. Conversely, as there is a certain extent of supply substitutability

between PC games and game console games as mentioned in B(B) above but only limited demand substitutability between games for different types of platform as mentioned in B(A) above, the scope of products and services is defined as the “PC Game Development and Publishing Business,” “Game Console Game Development and Publishing Business,” and “Mobile Game Development and Publishing Business,” and the existence and level of competitive pressure were examined as adjacent markets with respect to the “PC Game Development and Publishing Business,” and “Game Console Game Development and Publishing Business.”

(2) Geographic scope

The contents and features of games provided to users are shared in many countries, so the geographic market definition could be set as “worldwide.” However, the provision of a game requires localization such as language, etc. for each country, and the tastes of users of each country differ, with the best-selling titles in each country differing¹¹ by game annual sales. For example, even for Activision Group’s Call of Duty, which is software with high global popularity, there are numbers of games in Japan that are more popular. In fact, even companies that conduct business worldwide have different market shares by country or region.

For this reason, the geographic scope is defined as “Japan” from the perspective of examining the effect on Japanese users in particular.

4 Game sales and distribution business

(1) Scope of product and service

A Substitutability of Packaged Product sales and digital distribution

(a) Demand substitutability

Comparing Packaged Products to digital distribution, the benefits of digital distribution for the consumers that are users are said to include the ability to immediately obtain something when they think they want to purchase it, and the simplicity of transportation and not needing a storage place. On the other hand, a benefit of Packaged Products is said to be not putting pressure on device storage. Considering these differences, it is possible that to a certain extent, users use Packaged Products and digital distribution for different

¹¹ On this point, according to unit sales data for home-use video game software in 2022 released by the Kadokawa Ascii Research Laboratories as an example, the top 10 titles were as follows. Activision Group’s global hit game software Call of Duty Modern Warfare II (released October 28, 2022) does not make the top 10. 1. Pocket Monster Scarlet / Violet, 2. Splatoon 3, 3. Pokémon Legends Arceus, 4. Kirby and the Forgotten Land, 5. Nintendo Switch Sports, 6. Mario Kart 8 Deluxe, 7. Minecraft, 8. Mario Party Super Stars, 9. Super Smash Bros. Ultimate, 10. Elden Ring.

purposes.

Therefore, the substitutability of demand for Packaged Products and digital distribution is thought to be limited.

(b) Supply substitutability

As stated in of Section IV-3(1) above, sales of Packaged Products require that a system be arranged, such as the securing of facilities for the manufacturing of physical media and places for storage of inventory. On the other hand, while digital distribution is thought not to require securing of facilities for the manufacturing of physical media and places for storage of inventory, it requires the expertise necessary for processing related to digital content (processing to prevent illegal copying, etc.) and the like. Therefore, it is possible that supply substitutability cannot be found.

B Substitutability between game sales and distribution for different types of game platforms (PCs, game consoles, and mobile devices)

(a) Demand substitutability

The consumers who are users purchase games for the game platforms that they own, and therefore there is no substitutability of demand for game sales and distribution for game platforms that they do not own. While there are consumers who own multiple types of game platforms, as well as consumers who purchase new platforms, as stated in 3(1)B(b) above, there are differences in performance, functions, and operability among the three types of platforms, and there are differences in the games that are playable corresponding to these differences, so it is thought that consumers who play games to some extent use the three types of platforms for different purposes.

Therefore, the substitutability of demand between game sales and distribution for different types of platforms is limited.

(b) Supply substitutability

In online stores and multi-game subscription services for each type of platform, it becomes necessary to newly develop, improve, etc. the distribution management systems, applications, etc. for the respective corresponding digital files, and therefore it is not easy to develop and provide games for online stores and multi-game subscription services for each type of platform without incurring substantial added costs and risks.

Therefore, the substitutability of supply between game sales and distribution for different types of platforms is limited.

C Substitutability of different distribution methods (outright purchase-type, multi-game subscription service, freemium model)

(a) Demand substitutability

There are three different distribution methods for the digital distribution of games: the outright purchase-type, the multi-game subscription service, and the freemium model. As these respectively have the special characteristics described in of Section IV-3(1) above, consumers are thought to use each service selectively considering these special characteristics.

Therefore, the substitutability of demand among the outright purchase-type, the multi-game subscription service, and the freemium model is thought to be limited.

(b) Supply substitutability

If a game distribution business provider wishes to use a distribution method that it has not previously used, it would be necessary to, for example, manage the distribution period for games in the catalog of a multi-game subscription service, or have systems for *gacha* or other in-game purchases and systems for displaying in-game advertising under the freemium model, making necessary new development, improvement, etc. of distribution management systems and applications, etc.

Therefore, the substitutability of supply among the outright purchase-type, the multi-game subscription service, and the freemium model is thought to be limited.

D Summary

Based on the above, substitutability cannot be found between sales of Packaged Products and digital distribution, and the substitutability between sales and distribution for different types of platforms and between different distribution methods is limited.

The Parties Group provides both PC games and game console games through respectively outright purchase-type distribution and a multi-game subscription service and freemium model. Of these, with regard to the freemium model, the market position of the Parties Group is low, and the impact of the Transaction on

competition is considered to be minor, the scope of products and services is defined as the “PC Game Outright Purchase-Type Distribution Business,” “Game Console Game Outright Purchase-Type Distribution Business,” “PC Multi-Game Subscription Service Provision Business,” and “Game Console Multi-Game Subscription Service Provision Business.”

(2) Geographic scope

In most countries, games share contents and functions provided to users, so the geographic scope can be thought of as “worldwide.” On the other hand, the supply of games requires localization for languages, etc. in each country, and as described in 3(2) above, there are differences in the lineup of top titles in terms of annual sales volumes of games in each country, the preferences of users in each country vary, and even business providers who have developed their business worldwide have different market shares in different countries and regions.

Therefore, particularly from the standpoint of considering the effect on consumers in Japan, “Japan” is defined as the geographic scope.

5 Cloud gaming service provision business

(1) Scope of product and service

As described in Section IV-3(2) above, cloud gaming services are provided as stand-alone services, and there are also services provided in combination with multi-game subscription services, such as the Game Pass provided by Microsoft Group; therefore, Cloud Gaming Services and Multi-Game Subscription Services can be thought to be within the same scope of product and service. However, Cloud Gaming Services have only been introduced in recent years, the market size within Japan is growing, and further growth and transformation is expected in the future. Therefore, from the standpoint of a more careful examination, “Cloud Gaming Services” are defined as a separate market from “Multi-Game Subscription Services.”

Furthermore, Cloud Gaming Service users are able to play games compatible with a Cloud Gaming Service regardless of the game platforms they own, so long as it is a game platform that is capable of connecting to the Internet, as described in Section IV-3(2) above. Thus, there is no need to define Cloud Gaming Services as separate markets for each type of platform.

Therefore, the scope of product and service is defined as the “Cloud Gaming Service Provision Business.”

(2) Geographic scope

When game data processed on the cloud is sent to user platforms, a gap in time between the user's input and the image on the screen will arise if it takes a long time to send the data. In general, if the data center used for sending data is located within the country, the data sending time will be shorter in comparison to using a cloud server overseas. Therefore, Cloud Gaming Service Provision Business providers establish data centers in each country/region and provide Cloud Gaming Services to users in the countries/regions where those data centers are established. In practice, the lineup of business providers in each country/region is different.

Therefore, "Japan" is defined as the geographic scope.

VI. Applicability of safe harbor standards to a particular field of trade

As noted in Section III-3 above, as forms of business combinations that may create competition concerns due to the Transaction, the JFTC examines it as falling under horizontal, vertical, and conglomerate business combinations, as provided in Table 1 below. The market shares for Lines 1 through 5, 8, and 11 of Table 1 below fall under the safe harbor standards¹² for horizontal and vertical business combinations as shown in Table 2 through Table 7. On the other hand, while it is difficult to ascertain exact market shares for Lines 6, 7, 9, 10, and 12 of Table 1 below, for reference, estimate values, etc. are as provided in Table 8 through Table 10.

As the market shares for Lines 6, 7, 9, 10, and 12 of Table 1 below do not fall under the safe harbor standards for vertical and conglomerate business combinations, we analyze whether the Transaction would substantially restrain competition in Section VII below.

¹² The "Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combinations" (May 31, 2004, Japan Fair Trade Commission), Section IV-1(3) states that ordinarily it cannot be understood for a horizontal combination of enterprises to substantially restrain competition in a particular field of trade if (i) the Herfindahl-Hirschman Index (which is an index that represents market concentration and is the sum of the squared market share of each business operator in a particular field of trade; hereinafter the "HHI") after the merger is not more than 1,500, (ii) the HHI after the merger is more than 1,500 but not more than 2,500 while the increment of the HHI is not more than 250, or (iii) the HHI after the merger is more than 2,500 while the increment of the HHI is not more than 150. Also, Section V-1(2) and Section VI-1(2) of the same Guidelines states that ordinarily it cannot be understood for a vertical and conglomerate combination of enterprises to substantially restrain competition in a particular field of trade if (i) the market share of the company group after the business combination is not more than 10% in all of the particular fields of trade relevant to the company group, or (ii) the HHI is not more than 2,500 and the market share of the company group after the business combination is not more than 25% in all of the particular fields of trade relevant to the company group (such criteria are called "safe harbor criteria").

[Table 1] Forms of Business Combination and Safe Harbor Status

Form of Business Combination		Product/Service	Safe Harbor Status
Horizontal Business Combination	1	PC Game Development and Publishing Business	○
	2	Game Console Game Development and Publishing Business	○
	3	Mobile Game Development and Publishing Business	○
	4	PC Game Outright Purchase-Type Distribution Business	○

		Upstream Market	Downstream Market	
Vertical Business Combination	5	PC Game Development and Publishing Business (M, A)	PC Game Outright Purchase-Type Distribution Business (M, A)	○
	6		PC Multi-Game Subscription Service Provision Business (M)	×
	7		Cloud Gaming Service Provision Business (M)	×
	8	Game Console Game Development and Publishing Business (M, A)	Game Console Game Outright Purchase-Type Distribution Business (M)	○
	9		Game Console Multi-Game Subscription Service Provision Business (M)	×
	10		Cloud Gaming Service Provision Business (M)	×
11	Game Console Provision Business (M)		○	

Conglomerate Business Combination	12	PC Game Development and Publishing Business (M, A)	PC OS Provision Business (M)	×
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* (M) is a business conducted by Microsoft Group, (A) is a business conducted by Activision Group.

[Table 2] PC Game Development and Publishing Business Market Shares in 2021¹³

Ranking	Company Name	Market Share
1	Company A	Approx. 20%
2	Company B	Approx. 10%
3	Company C	0 – 5%
4	Microsoft Group	0 – 5%
5	Company D	0 – 5%
6	Company E	0 – 5%
7	Company F	0 – 5%
8	Company G	0 – 5%
12	Activision Group	0 – 5%
—	Others	Approx. 55%
Total		100%
Combined Market Share/Ranking: 0 – 5% / #4 HHI after the Transaction (Maximum): 589.7 HHI incremental: 5.9		

[Table 3] Game Console Game Development and Publishing Business Market Shares in 2021

Ranking	Company Name	Market Share
1	Company H	Approx. 35%
2	Company I	0 – 5%
3	Microsoft Group	0 – 5%
4	Company J	0 – 5%
5	Company K	0 – 5%
6	Company L	0 – 5%
7	Company M	0 – 5%
8	Activision Group	0 – 5%
—	Others	Approx. 60%
Total		100%
Combined Market Share/Ranking: 0 – 5% / #3 HHI after the Transaction (Maximum): 1,142.9 HHI incremental: 1.7		

¹³ Stated in units of 5%, such as 32.5% to under 37.5% being shown as “Approx. 35%.” Therefore, the totals do not necessary add up to 100. Same below.

[Table 4] Mobile Game Development and Publishing Business Market Share in 2021

Ranking	Company Name	Market Share
1	Company N	Approx. 10%
2	Company O	Approx. 5%
3	Company P	Approx. 5%
4	Company Q	Approx. 5%
5	Company R	Approx. 5%
6	Company S	0 – 5%
7	Company T	0 – 5%
8	Company U	0 – 5%
Unknown	Microsoft Group	0 – 5%
Unknown	Activision Group	0 – 5%
—	Others	Approx. 55%
Total		100%
Combined Market Share/Ranking: 0 – 5% / Unknown HHI after the Transaction (Maximum): 449.8 HHI incremental: 0.2		

[Table 5] PC Game Outright Purchase-Type Distribution Business Market Shares in 2021

Ranking	Company Name	Market Share
1	Company V	Approx. 30%
2	Company W	Approx. 25%
3	Company X	Approx. 15%
4	Company Y	Approx. 10%
5	Company Z	Approx. 5%
6	Company AA	0 – 5%
7	Microsoft Group	0 – 5%
8	Company BB	0 – 5%
9	Activision Group	0 – 5%
—	Others	0 – 5%
Total		100%
Combined Market Share/Ranking: 0 – 5% / #6 HHI after the Transaction (Maximum): 2,057.0 HHI incremental: 5.5		

[Table 6] Game Console Outright Purchase-Type Distribution Business Market Share in 2021

Ranking	Company Name	Market Share
1	Company CC	Approx. 50%
2	Company DD	Approx. 50%
3	Microsoft Group	0 – 5%
4	Company EE	0 – 5%
Total		100%
HHI: 4,804.6		

[Table 7] Game Console Provision Business Market Share in 2021

Ranking	Company Name	market share
1	Company FF	Approx. 70%
2	Company GG	Approx. 30%
3	Microsoft Group	0 – 5%
Total		100%
HHI: 5,630.0		

VII. Assessment of substantial restraints on competition

1 Vertical business combination with PC Game Development and Publishing Business as upstream market and PC Multi-Game Subscription Service Provision Business as downstream market (Table 1, Line 6)

(1) Substantial restraints on competition due to unilateral conduct

A Parties Group’s position

The Parties Group’s market share in the “PC Game Development and Publishing Business” is as provided in Table 2 above and falls under the vertical business combination safe harbor standards. While it is difficult to exactly ascertain market shares in the “PC Multi-Game Subscription Service Provision Business” after the Transaction, the market share including game console Multi-Game Subscription Services is provided for reference in Table 8 below. As the exact market share of the Parties Group for the “PC Multi-Game Subscription Service Provision Business” is unknown, we assess it as not falling under the vertical business combination safe harbor standards.

[Table 8] (For Reference) PC and Game Console Multi-Game Subscription Service Provision Business Market Shares in 2021

Ranking	Company Name	market share
1	Company HH	Approx. 95%
2	Company II	0 – 5%
3	Microsoft Group	0 – 5%
4	Company JJ	0 – 5%
Total		100%
HHI: Approx. 9,414.5		

B Input foreclosure

The JFTC examined the possibility of foreclosure or exclusivity problems in downstream market due to the Parties Group refusing to supply PC games, delaying the time of supply, restricting certain content, etc. to PC Multi-Game Subscription Service Provision Business providers other than the Microsoft Group (“PC Game Supply Refusal”).

In upstream market, there are multiple competitors other than the Parties Group that have higher market shares than the Parties Group, and there is a leading competitor with market share of 10% or higher. Furthermore, considering that a shortfall in supply capacity is difficult to conceive due to the characteristics of distribution in digital format, even if there was a PC Game Supply Refusal by the Parties Group, PC Multi-Game Subscription Service Provision Business providers other than Microsoft Group could procure them from other PC Game Development and Publishing Business providers.

Furthermore, as described in Section IV-4 above, while indirect network effects are thought to work in game-related businesses, the Parties Group has market shares of less than 5% in the PC Game Development and Publishing Business, and it is therefore thought that the position of the Parties Group in the PC Game Development and Publishing Business would have a limited impact on competition in the PC Multi-Game Subscription Service Provision Business market.

Therefore, even considering indirect network effects, the Parties Group has no input foreclosure ability, and therefore it is found that no foreclosure or exclusivity problems would occur in downstream market due to input foreclosure.

C Customer foreclosure

The JFTC examined the possibility of foreclosure or exclusivity problems in upstream market due to Microsoft Group refusing, delaying, obscuring the location

of, etc. listings in the game catalog of a PC Multi-Game Subscription Service vis-à-vis PC Game Development and Publishing Business providers other than the Parties Group (“PC Game Listing Refusal”).

There are multiple competitors in downstream market. Furthermore, as there are strong business providers in the larger adjacent market of Game Console Multi-Game Subscription Service Provision Businesses, PC Game Development and Publishing Business providers other than the Parties Group are able to handle it through porting as described in Section V-3(1)B. Moreover, there are business providers who are expected to newly enter the PC Multi-Game Subscription Service market.

Considering these factors, Microsoft Group has no customer foreclosure ability because even if Microsoft Group were to conduct a PC Game Listing Refusal, PC Game Development and Publishing Business providers other than the Parties Group could supply to other PC Multi-Game Subscription Service Provision Business providers, etc.

Therefore, it is found that no foreclosure or exclusivity problems would occur in upstream market due to customer foreclosure.

- (2) Market effects due to sharing confidential information of competitors within Parties Group
Information shared in transactions between PC Game Development and Publishing Business providers and PC Multi-Game Subscription Service Provision Business providers does not include their respective product or service designs or product plans, and the Parties Group is not found to place competitors in upstream or downstream market in a competitively detrimental position by obtaining confidential information of competitors and using such information for the benefit of the Parties Group.

- (3) Substantial Restraints on Competition Due to Coordinated Conduct

The JFTC examined, due to the Transaction, the possibility of a problem of substantial restraints on competition due to coordinated conduct in the upstream market due to the Parties Group in the upstream market obtaining pricing and other information for sales by other PC Game Development and Publishing Business providers to PC Multi-Game Subscription Service Provision Business providers, through Microsoft Group in the downstream market. Similarly, the JFTC examined the possibility of a problem of substantial restraints on competition due to coordinated conduct occurring due to Microsoft Group in the downstream market obtaining information on fees, etc. paid to the Game Development and Publishing Business providers of other PC Multi-Game Subscription Service Provision Business providers in the downstream market through the Parties Group

in the upstream market.

However, as to license fees net of fees paid by PC Multi-Game Subscription Service Provision Business providers to PC Game Development and Publishing Business providers, considering the situations related to the transactions, it is difficult to forecast the pricing information, etc. of competitors, and it is thought that it would not be easy to forecast with high certainty each other's conduct as between the Parties Group and competitors.

Therefore, it is thought that the Transaction would not substantially restrain competition in the PC Game Development and Publishing Business and PC Multi-Game Subscription Service Provision Business through coordinated conduct with the Parties Group's competitors.

2 Vertical business combination with the Game Console Game Development and Publishing Business as upstream market and the Game Console Multi-Game Subscription Service Provision Business as downstream market (Table 1, Line 9)

(1) Substantial restraints on competition due to unilateral conduct

A Parties Group's position

The market shares of the Parties Group in the "Game Console Game Development and Publishing Business" are provided in Table 3 above, and fall under the vertical business combination safe harbor standards. While it is difficult to exactly ascertain market shares in the "Game Console Multi-Game Subscription Service Provision Business" after the Transaction, market shares including PC Multi-Game Subscription Services are shown for reference in Table 8 above. As the exact market shares of the Parties Group in the "Game Console Multi-Game Subscription Service Provision Business" are unknown, we examine them as not falling under the vertical business combination safe harbor standards.

B Input foreclosure

The JFTC examined the possibility of foreclosure or exclusivity problems in downstream market due to the Parties Group refusing to supply game console games, delaying the time of supply, or restricting certain contents to Game Console Multi-Game Subscription Service Provision Business providers other than the Microsoft Group ("Game Console Game Supply Refusal").

In the upstream market, there are competitors other than the Parties Group that have higher market shares than the Parties Group and that are powerful with a market share of 10% or higher. Furthermore, considering that a shortfall in supply capacity is difficult to conceive due to the characteristics of distribution in digital format, even if there was a Game Console Game Supply Refusal by the Parties Group, Game

Console Multi-Game Subscription Service Provision Business providers other than the Microsoft Group could procure them from other Game Console Game Development and Publishing Business providers.

Furthermore, as described in Section IV-4 above, while indirect network effects are thought to work in game-related businesses, the market share of the Parties Group in the Game Console Game Development and Publishing Business is less than 5%. Even with regard to the Activision Group’s globally popular game software, the “Call of Duty” series, there are multiple game software titles that are more popular in the domestic market.¹⁴ Therefore, the impact of the position of the Parties Group in the Game Console Game Development and Publishing Business on competition in the Game Console Multi-Game Subscription Service Provision Business market is limited.

Therefore, even considering indirect network effects, the Parties Group has no input foreclosure ability, and it is found that no downstream market foreclosure or exclusivity problems would occur due to input foreclosure.¹⁵

C Customer foreclosure

The JFTC examined the possibility that upstream market foreclosure or exclusivity problems could occur due to Microsoft Group refusing, delaying the time of, or obscuring the place of listings in game catalogs for the Game Console Multi-Game Subscription Service vis-à-vis Game Console Game Development and Publishing Business providers other than the Parties Group (“Game Console Game Listing Refusal”).

Multiple competitors exist in the downstream market, and a shortfall in supply capacity is difficult to conceive due to the characteristics of Multi-Game Subscription Service. Furthermore, there are multiple business providers also in the adjacent market of PC Multi-Game Subscription Service Provision Business providers, and it is possible for Game Console Game Development and Publishing

¹⁴ See Footnote 11.

¹⁵ In relation to incentives for input foreclosure pertaining to the Game Console Game Development and Publishing Business, the Parties submitted the results of a critical diversion analysis applying a vertical arithmetic (vertical arithmetic being a calculation of the profits lost from input foreclosures and the profits gained from input foreclosures and a comparison of their size, and critical diversion analysis being a calculation of the rate of consumers switching to the Parties from competitors excluded by input foreclosure in cases where the two profits conflict (critical diversion ratio) and evaluation of the probability of realization, etc.), and the JFTC evaluated the results. While the economic analysis by the Parties was carried out primarily by combining UK and worldwide data, even if a similar economic analysis by the Parties had been carried out using data limited to the Japan market, it is likely that the critical diversion ratio would be higher considering the state of the related markets in Japan, and therefore the possibility of concluding that incentives for input foreclosure would occur was evaluated as being low.

Business providers other than the Parties Group to respond through porting as described in Section V-3(1)B.

Considering the foregoing, even if Microsoft Group were to conduct a Game Console Game Listing Refusal, Game Console Game Development and Publishing Business providers other than the Parties Group would be able to supply other Game Console Multi-Game Subscription Service Provision Business providers, etc. through porting, and therefore Microsoft Group has no customer foreclosure ability.

Therefore, it is found that market foreclosure or exclusivity problems would not occur in upstream market due to customer foreclosure.

(2) Market effects due to sharing confidential information of competitors within the Parties Group

Information shared in transactions between Game Console Game Development and Publishing Business providers and Game Console Multi-Game Subscription Service Provision Business providers does not contain information on the respective product or service designs or product plans, and it is not found that competitors in upstream or downstream markets would be placed in a competitively detrimental position due to the Parties Group obtaining confidential information from competitors and using the information for their own benefit.

(3) Substantial restraints on competition due to coordinated conduct

The JFTC examined, due to the Transaction, the possibility of problems of substantial restraints on competition in upstream market due to coordinated conduct as a result of the Parties Group in the upstream market obtaining information through Microsoft Group in the downstream market on pricing, etc. for sales from other Game Console Game Development and Publishing Business providers in the upstream market to Game Console Multi-Game Subscription Service Provision Business providers. Similarly, the JFTC examined the possibility of problems of substantial restraints on competition in downstream market due to coordinated conduct as a result of Microsoft Group in the downstream market obtaining information through the Parties Group in the upstream market on fees, etc. paid to Game Console Game Development and Publishing Business providers from other Game Console Multi-Game Subscription Service Provision Business providers in the downstream market.

However, as to license fees net of fees paid by Game Console Multi-Game Subscription Service Provision Business providers to Game Console Game Development and Publishing Business providers, considering the situations related to the transactions, it is difficult to forecast the pricing information, etc. of competitors, and it is thought that it would not be

easy to forecast with high certainty each other’s conduct as between the Parties Group and competitors.

Therefore, it is thought that the Transaction would not substantially restrain competition in the Game Console Game Development and Publishing Business and Game Console Multi-Game Subscription Service Provision Business through coordinated conduct with the Parties Group’s competitors.

3 Vertical business combination with the PC Game Development and Publishing Business as the upstream market and the Cloud Gaming Service Provision Business as the downstream market (Table 1, Line 7)

(1) Substantial restraints on competition due to unilateral conduct

A Parties Group’s position

The market shares of the Parties Group in the “PC Game Development and Publishing Business” are provided in Table 2 above and fall under the vertical business combination safe harbor standards. On the other hand, while it is difficult to exactly ascertain market shares in the “Cloud Gaming Service Provision Business” following the Transaction, Cloud Gaming Service Provision Business market shares estimated by the Microsoft Group are indicated for reference in Table 9 below. In addition to the exact market share of the Microsoft Group in the “Cloud Gaming Service Provision Business” being unknown, the scale of the Japan domestic market concerning the Cloud Gaming Service Provision Business is growing, and major growth and transformation is possible in the future. Therefore, from the standpoint of a more careful examination, we examine it as not falling under the vertical business combination safe harbor standards.

[Table 9] (For Reference) Cloud Gaming Service Provision Business Market Share in 2021

Ranking	Company Name	Market Share
1	Company KK	Approx. 90%
2	Microsoft Group	Approx. 10%
Total		100%
HHI: Approx. 8,427.9		

B Input foreclosure

The JFTC examined the possibility of foreclosure or exclusivity problems in downstream market due to the Parties Group refusing to supply PC games, delaying the time of supply, or restricting certain content, etc. to Cloud Gaming Service Provision Business providers other than the Microsoft Group (“PC Game Supply Refusal”).

In the upstream market, there are multiple competitors other than the Parties Group with higher market shares than the Parties Group, and there is a leading competitor with market share of 10% or higher. Furthermore, considering that a shortfall in supply capacity is difficult to conceive due to the characteristics of distribution in digital format, even if the Parties Group were to conduct a PC Game Supply Refusal, Cloud Gaming Service Provision Business providers other than Microsoft Group could procure from other PC Game Development and Publishing Business providers.

Furthermore, as described in Section IV-4 above, while indirect network effects are thought to work in game-related businesses, the market shares of the Parties Group in the PC Game Development and Publishing Business are less than 5%. Therefore, it is thought that the positions of the Parties Group in the PC Game Development and Publishing Business would have a limited impact on competition in the PC Cloud Gaming Service Provision Business market.

Therefore, even considering indirect network effects, the Parties Group have no input foreclosure ability, and it is found that no downstream market foreclosure or exclusivity problems would occur due to input foreclosure.

C Customer foreclosure

(a) Customer foreclosure ability

The JFTC examined the possibility of foreclosure or exclusivity problems in upstream market due to Microsoft Group refusing, delaying, or obscuring the location of, etc. a listing in the game catalog of a Cloud Gaming Service vis-à-vis PC Game Development and Publishing Business providers other than the Parties Group (“PC Game Listing Refusal”).

Company KK exists as a competitor in the downstream market, and a shortfall in supply capacity is difficult to conceive due to the characteristics of Cloud Gaming Service. Games can also be played through the method of downloading, and there are leading competitors in the adjacent markets for playing games of outright purchase-type distribution business for various platforms and Multi-Game Subscription Service provision business. Therefore, even if Microsoft Group were to conduct a PC Game Listing Refusal, PC Game Development and Publishing Business providers other than the Parties Group could supply to Cloud Gaming Service Provision Business providers, or outright purchase-type distribution business providers, etc.

Considering the foregoing, it is thought that Microsoft Group has no customer foreclosure ability. However, to be sure, we also examine the incentives for customer foreclosure in (b) below because this market has active innovation

and is expected to grow and transform further in the future, as described in Section V-5(1) above.

(b) Customer foreclosure incentives

If, as a result of the Transaction, the profits in (i) below outweigh the losses in (ii) below, Microsoft Group would be found to have incentives to refuse listings, etc. in game catalogs for the Cloud Gaming Service, and market foreclosure or exclusivity problems could occur.

(i) The profits from Microsoft Group refusing listings, etc. in game catalogs for the Cloud Gaming Service vis-à-vis PC Game Development and Publishing Business providers other than the Parties Group to reduce the PC game sales of competing PC Game Development and Publishing Business providers and increase the PC game sales of the Parties Group

(ii) The losses from the reduction in users (consumers) of the Cloud Gaming Service provided by the Parties Group due to Microsoft Group refusing listings, etc. in game catalogs for the Cloud Gaming Service vis-à-vis PC Game Development and Publishing Business providers other than the Parties Group

As stated in Section IV-4, there is a relationship in which Cloud Gaming Services become more attractive to consumers as more games are offered in the game catalogs on those Cloud Gaming Services (indirect network effects). Furthermore, the market share of Activision Group in the PC Game Development and Publishing Business is less than 5%.

Considering the foregoing, it is thought that Microsoft Group conducting refusal of listing, etc. against competing PC Game Development and Publishing Business providers would greatly diminish the attractiveness of the Microsoft Group Cloud Gaming Service, and would lead to the loss of Microsoft Group Cloud Gaming Service users to the Cloud Gaming Services of competitors, as well as to other distribution methods such as outright purchase-type distribution in which strong competitors are present, and that the losses from this would exceed the profits in (i) above.

Therefore, incentives are not found for Microsoft Group to conduct customer foreclosure, and no market foreclosure or exclusivity problems could occur.

(2) Market effects due to sharing confidential information of competitors within the Parties Group

Information shared in transactions between PC Game Development and Publishing Business providers and Cloud Gaming Service Provision Business providers does not contain information on product or service designs or product plans, and it is not found that competitors in upstream or downstream markets would be placed in a competitively detrimental position due to the Parties Group obtaining confidential information from competitors and using the information for their own benefit.

(3) Substantial restraints on competition due to coordinated conduct

The JFTC examined, due to the Transaction, the possibility of a problem of substantial restraints on competition due to coordinated conduct in the upstream market due to the Parties Group in the upstream market obtaining pricing and other information for sales by other PC Game Development and Publishing Business providers in the upstream market to Cloud Gaming Service Provision Business providers through Microsoft Group in the downstream market. Similarly, the JFTC examined the possibility of a problem of substantial restraints on competition due to coordinated conduct occurring in the downstream market due to Microsoft Group in the downstream market obtaining information on fees, etc. to the PC Game Development and Publishing Business providers from other Cloud Gaming Service Provision Business providers in the downstream market through the Parties Group in the upstream market.

However, as to license fees net of fees paid by Cloud Gaming Service Provision Business providers to PC Game Development and Publishing Business providers, considering the situations related to the transactions, it is difficult to forecast the pricing information, etc. of competitors, and it is thought that it would not be easy to forecast with high certainty each other's conduct as between the Parties Group and competitors.

Therefore, it is thought that the Transaction would not substantially restrain competition in the PC Game Development and Publishing Business and Cloud Gaming Service Provision Business through coordinated conduct with the Parties Group's competitors.

4 Vertical business combination with Game Console Game Development and Publishing Business as upstream market and Cloud Gaming Service Provision Business as downstream market (Table 1, Line 10)

(1) Substantial restraints on competition due to unilateral conduct

A Parties Group's position

The market shares of the Parties Group in the "Game Console Game Development and Publishing Business" are provided in Table 3 above, and fall under the vertical business combination safe harbor standards. On the other hand, while it is difficult to exactly ascertain market shares in the "Cloud Gaming Service Provision Business"

after the Transaction, the market shares in the Cloud Gaming Service Provision Business estimated by the Microsoft Group are indicated for reference in Table 9 above. In addition to the exact market share of the Microsoft Group in the “Cloud Gaming Service Provision Business” being unknown, the Japan domestic market for the Cloud Gaming Service Provision Business is growing, and major growth and transformation is forecast in the future. Therefore, from the standpoint of a more careful examination, we examine it as not falling under the vertical business combination safe harbor standards.

B Input foreclosure

The JFTC examined the possibility of foreclosure or exclusivity problems in downstream market due to the Parties Group refusing to supply game console games, delaying the time of supply, or restricting certain content, etc. to Cloud Gaming Service Provision Business providers other than the Microsoft Group (“Game Console Game Supply Refusal”).

In the upstream market, there are competitors other than the Parties Group with higher market shares than the Parties Group, and leading competitors with market shares of 10% or higher. Even with regard to the Activision Group’s globally popular game software, the “Call of Duty” series, there are multiple game software titles that are more popular in the domestic market.¹⁶ Moreover, considering that a shortfall in supply capacity is difficult to conceive due to the characteristics of distribution in digital format, even if the Parties Group were to conduct a Game Console Game Supply Refusal, Cloud Gaming Service Provision Business providers other than Microsoft Group could procure from other Game Console Game Development and Publishing Business providers. Therefore, the Parties Group has no ability to conduct input foreclosure.

Therefore, it is found that no market foreclosure or exclusivity problems would arise in downstream market due to input foreclosure.

C Customer foreclosure

(a) Customer foreclosure ability

The JFTC examined the possibility that upstream market foreclosure or exclusivity problems could occur due to Microsoft Group refusing, delaying the time of, or obscuring the place of listings in game catalogs for the Cloud Gaming Service vis-à-vis Game Console Game Development and Publishing

¹⁶ See Footnote 11.

Business providers other than the Parties Group (“Game Console Game Listing Refusal”).

Company KK exists as a competitor in the downstream market, and a shortfall in supply capacity is difficult to conceive due to the characteristics of Cloud Gaming Service. Games can also be played through the method of downloading, and there are leading competitors in the adjacent markets for playing games of outright purchase-type distribution business for various platforms and Multi-Game Subscription Service provision business. Therefore, even if Microsoft Group were to conduct a Game Console Game Listing Refusal, Game Console Game Development and Publishing Business providers other than the Parties Group could supply to other Cloud Gaming Service Provision Business providers, or outright purchase-type distribution business providers, etc.

Considering the foregoing, it is thought that Microsoft Group has no customer foreclosure ability. However, to be sure, we also examine the incentives for customer foreclosure in (b) below because this market has active innovation and is expected to grow and transform further in the future, as described in Section V-5(1) above.

(b) Customer foreclosure incentives

If, as a result of the Transaction, the profits in (i) below outweigh the losses in (ii) below, Microsoft Group would be found to have incentives to conduct refusal of listings, etc. in game catalogs for the Gaming Service, and market foreclosure or exclusivity problems would occur.

(i) The profits from Microsoft Group conducting refusal of listings, etc. in game catalogs for the Cloud Gaming Service against Game Console Game Development and Publishing Business providers other than the Parties Group to reduce the game console game sales of competing Game Console Game Development and Publishing Business providers and increase the game console game sales of the Parties Group

(ii) The losses from the reduction in users (consumers) of the Cloud Gaming Service provided by the Parties Group due to Microsoft Group conducting refusal of listings, etc. in game catalogs for the Cloud Gaming Service against Game Console Game Development and Publishing Business providers other than the Parties Group

As stated in Section IV-4, there is a relationship in which Cloud Gaming

Services become more attractive to consumers as more games are offered in the game catalogs on those Cloud Gaming Services (indirect network effects).

Furthermore, the market share of Activision Group in the Game Console Game Development and Publishing Business is less than 5%, and even with regard to the Activision Group's globally popular game software, the "Call of Duty" series, there are multiple game software titles that are more popular in the domestic market.¹⁷

Considering the foregoing, it is thought that listing refusals, etc. by Microsoft Group against competing Game Console Game Development and Publishing Business providers would greatly diminish the attractiveness of the Microsoft Group Cloud Gaming Service, and would lead to the loss of Microsoft Group Cloud Gaming Service users to the Cloud Gaming Services of competitors, as well as outflows to other distribution methods such as outright purchase-type distribution offered by strong competitors, and that the losses from this would exceed the profits in (i) above.

Therefore, incentives are not found for Microsoft Group to conduct customer foreclosure, and no market foreclosure or exclusivity problems would occur.

(2) Market effects due to sharing confidential information of competitors within the Parties Group

Information shared in transactions between Game Console Game Development and Publishing Business providers and Cloud Gaming Service Provision Business providers does not contain information on product or service designs or product plans, and it is not found that competitors in upstream or downstream market would be placed in a competitively detrimental position due to the Parties Group obtaining confidential information from competitors and using the information for their own benefit.

(3) Substantial restraints on competition due to coordinated conduct

The examined, due to the Transaction, the possibility of a problem of substantial restraints on competition due to coordinated conduct in the upstream market due to the Parties Group in the upstream market obtaining pricing and other information for sales by other Game Console Game Development and Publishing Business providers in the upstream market to Cloud Gaming Service Provision Business providers through Microsoft Group in the downstream market. Similarly, the JFTC examined the possibility of a problem of substantial restraints on competition due to coordinated conduct occurring in the

¹⁷ See Footnote 11.

downstream market due to Microsoft Group in the downstream market obtaining information on fees, etc. to the Game Console Game Development and Publishing Business providers from other Cloud Gaming Service Provision Business providers in the downstream market through the Parties Group in the upstream market.

However, as to license fees net of fees paid by Cloud Gaming Service Provision Business providers to Game Console Game Development and Publishing Business providers, considering the situation related to the transactions, it is difficult to forecast the pricing information, etc. of competitors, and it is thought that it would not be easy to forecast with high certainty each other's conduct as between the Parties Group and competitors.

Therefore, it is thought that the Transaction would not substantially restrain competition in the Game Console Game Development and Publishing Business and Cloud Gaming Service Provision Business through coordinated conduct with the Parties Group's competitors.

5 Conglomerate business combination of PC Game Development and Publishing Business and PC OS Provision Business (Table 1, Line12)

(1) Competition restraint mechanisms

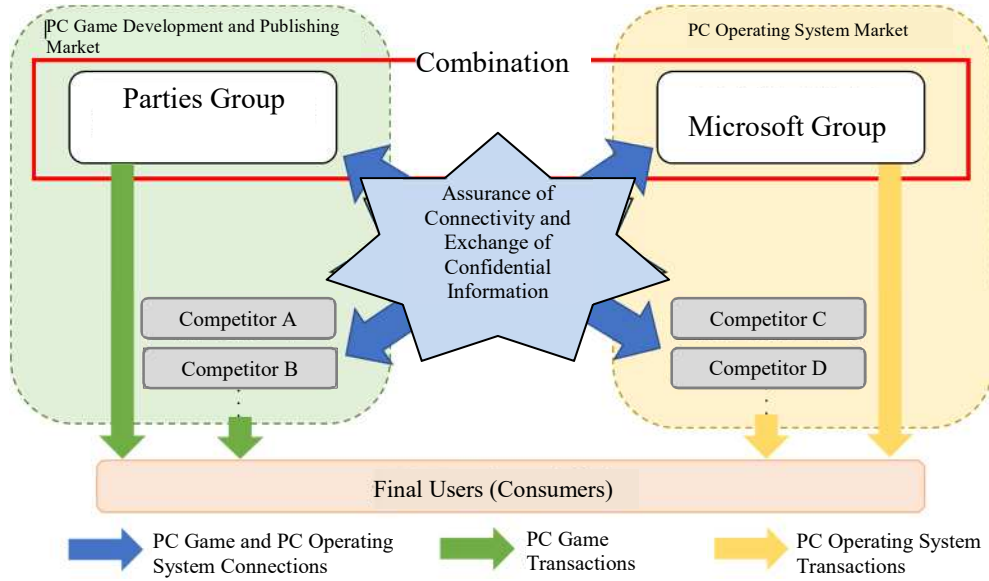
The mechanisms for restraints on competition (theories of harm) due to the conglomerate business combination of the PC Game Development and Publishing Business and PC OS Provision Business are as shown in the following diagram. In other words, with regard to the following diagram, the JFTC examined the possibility of market foreclosure or exclusivity occurring in the PC Game Development and Publishing Business due to Microsoft Group blocking connections with PC OSes or reducing the mutual connectivity with PC OSes vis-à-vis PC Game Development and Publishing Business providers other than the Parties Group ("OS Blocks") ((3) below).

Furthermore, the JFTC examined the possibility of market foreclosure or exclusivity occurring in the PC OS Provision Business due to the Parties Group blocking connections with PC games or reducing the mutual connectivity with PC games vis-à-vis PC OS Provision Business providers other than Microsoft Group ("Optimization Refusal") ((4) below).

Moreover, the JFTC examined the possibility of confidential information of competitors being shared within the Parties Group, placing the competitors in a competitively detrimental position if the Parties Group use it for their own benefit, and possibility of market foreclosure or exclusivity problems occurring due to the same ((5) below).

[Diagram] Overview Diagram of Competition Restraint Mechanisms (Theories of Harm) in

the Conglomerate Business Combination



(2) Parties Group’s position and competitor’s situation

Market shares of PC Game Development and Publishing Business within Japan are as provided in Table 2 above. While it is difficult to exactly ascertain market shares for PC Oses in the global market, estimated values for reference are as indicated in Table 10 below. Therefore, we examine it as not falling under the conglomerate business combination safe harbor standards.

[Table 10] (For Reference) PC OS Market Share in 2022

Ranking	Company Name	Market Share
1	Microsoft Group	Approx. 75%
2	Company LL	Approx. 15%
3	Company MM	0 – 5%
—	Others	Approx. 10%
Total		100%
HHI: Approx. 5,748.0		

(3) Examination of foreclosure and exclusivity of the PC Game Development and Publishing Business

We examined the possibility of market foreclosure and exclusivity that could occur in the PC Game Development and Publishing Business due to Microsoft Group conducting OS Blocks against PC Game Development and Publishing Business providers other than the Parties Group to enable games to be played on PCs using the PC Oses provided by

Microsoft Group (“Microsoft Group OS Blocks”).

A Ability

(a) Market share situation

While the market share of Microsoft Group in PC OSes in the global market is unknown, an estimated value is provided in Table 10 above, and it is presumed that Microsoft Group has a high market share in this market.

(b) Competitive pressure from competitors and adjacent markets

As explained in (a) above, based on the market share situation, it is generally thought that Microsoft Group OS Blocks could have a major impact on third-party PC Game Development and Publishing Business providers. However, there are competitors in the PC OS market. Furthermore, because there are multiple leading competitors in the adjacent game console provision market, third-party PC Game Development and Publishing Business providers can also port PC games to game consoles, and in addition to actually developing the same games for both PCs and game consoles, porting between PCs and game consoles is also frequent.

Therefore, competitive pressure is found from competitors and adjacent markets.

(c) Conclusion

Because of the foregoing, it is thought that Microsoft Group does not have the ability to cause market foreclosure or exclusivity problems by conducting OS Blocks.

Since it is presumed that the Microsoft Group has an especially high market share in the market for PC OSes as shown in Table 10 above, out of caution, we examine exclusionary incentives in Subsection B below.

B Incentives

If, as a result of the Transaction, the profits in (i) below outweigh the losses in (ii) below, Microsoft Group would be found to have incentives to conduct OS Blocks, and market foreclosure or exclusivity problems would occur.

(i) The profits from Microsoft Group conducting OS Blocks against PC Game Development and Publishing Business providers other than the Parties Group to reduce the PC game sales of competing PC Game Development and Publishing

Business providers and increase the PC game sales of the Parties Group

(ii) The losses of the Parties Group from the reduction in users (consumers) of PC OSes provided by the Microsoft Group due to Microsoft Group conducting OS Blocks against PC Game Development and Publishing Business providers other than the Parties Group

On this point, as shown in Table 2 above, the Parties Group have small market shares in the PC Game Development and Publishing Business. Furthermore, as stated in Section IV-4, there is a relationship in which game platforms become more attractive to consumers as more games are offered on those game platforms.

Therefore, it is thought that Microsoft Group conducting OS Blocks against competing PC Game Development and Publishing Business providers would greatly diminish the attractiveness of PCs with Microsoft Group OSes as game platforms for consumers who use PCs to play games, and would lead to the loss of Microsoft Group PC OS users to other PC OSes and the game consoles from strong competitors, and that the losses from this would exceed the profits in (i) above.

Therefore, incentives are not found for Microsoft Group to conduct OS Blocks, and no market foreclosure or exclusivity problems would occur.

C Foreclosure and exclusivity in the PC Game Development and Publishing Business
Due to the foregoing, no possibility is found of foreclosure or exclusivity problems in the PC Game Development and Publishing Business due to the Parties Group conducting OS Blocks after the Transaction.

(4) Examination of foreclosure and exclusivity of the PC OS Provision Business

We examine the possibility of foreclosure or exclusivity occurring in the PC OS Provision Business due to the Parties Group refusing to optimize their games for PC OSes other than Microsoft Group PC OSes to enable PC games to be played on PCs installed with PC OSes that are optimized for those games (“Parties Group Optimization Refusal”).

A Ability

(a) Market share situation

As shown in Table 2 above, the market shares of the Parties Group in the PC Game Development and Publishing Business are less than 5%, there are multiple competitors with market shares higher than the Parties Group, and there are leading competitors with market shares of 10% or greater.

(b) Competitive pressure from competitors and adjacent markets

As described in (a) above, based on the market share situation, it is not thought that optimization refusals by the Parties Group could have an impact on third-party PC OS Provision Businesses. Moreover, because there are multiple leading competitors in the adjacent Game Console Game Development and Publishing Business market as shown in Table 3 above, it is also possible to port game console games to PCs.

Therefore, competitive pressure is found from competitors and adjacent markets.

(c) Conclusion

Due to the foregoing, the Parties Group are thought to have no ability to cause market foreclosure or exclusivity problems through optimization refusals.

B Foreclosure and exclusivity of the PC OS Provision Business

Due to the foregoing, no possibility is found of foreclosure or exclusivity problems occurring in the PC OS Provision Business due to optimization refusals by the Parties Group after the Transaction.

- (5) Possibility of sharing of confidential information of competitors within the Parties Group
- When third-party PC Game Development and Publishing Business providers develop games compatible with the PC OSEs provided by Microsoft Group, in order to procure game development tools specialized for the PC OSEs provided by Microsoft Group, it is necessary to report to Microsoft Group in advance with an overview of the new game development and obtain a license from Microsoft Group for the game development tools. The Parties Group obtaining such information through Microsoft Group and using it for examination of product development against new businesses of competitors in the Game Development and Publishing Business could place the competitors in a competitively detrimental position. However, the information disclosed by such Game Development and Publishing Business providers is limited to game concepts at the initial stage and the like, and such disclosures of information on new game development by Game Development and Publishing Business providers are also provided when development tools are provided by the providers of other game platforms. It is thought that the information obtained by the Parties Group would not contain any particular data that is especially different compared with the information obtained by the providers of other game platforms.

Competitors in the adjacent market of the Game Console Provision Business have a stronger position than the Parties Group in that market, and these strong competitors are

also conducting the Game Console Game Development and Publishing Business, making it likely that there would be sufficient restraining influence in the form of competitive pressure from the adjacent market.

Considering this, it is thought that the business capabilities of the Parties Group would not be improved to the extent that competitive pressures would no longer work effectively. Therefore, no market foreclosure or exclusivity problems would occur due to the sharing of confidential information of competitors within the Parties Group.

VIII. Conclusion

The JFTC decided that the Transaction would not substantially restrain competition in any particular fields of trade.

End