

Market Study on Transactions Between Performers and Entertainment Agencies in the Music and Broadcasting Industry (points)

Purpose of the Market Study

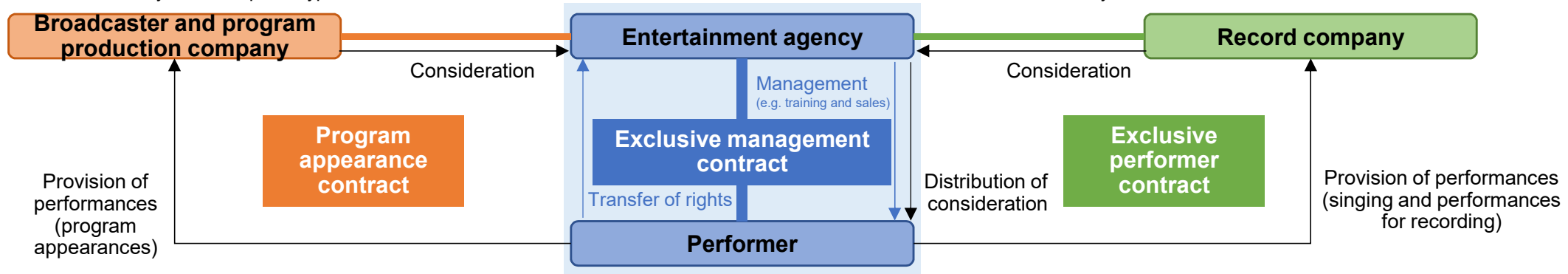
- Content such as cartoons, music, broadcast programs, movies, games, and *manga* is proud property of our country, and it is pointed out that we **need to set about rectification of business relations that hinder appropriate returning of profits to creators** to improve the environment to one in which the creativity of individual creators of our country is shown to the maximum.
- In the **Content Industry Revitalization Strategy** (formulated and specified in the "Grand Design and Action Plan for a New Form of Capitalism 2024 Revised Version" decided by the Cabinet on June 21, 2024), it is specified that, in view of the focus being shifted to the creativity of individuals in the content industry, with the cooperation of the Japan Fair Trade Commission, **we will conduct a fact-finding survey on trade practices in the music and broadcast program fields, with an emphasis on preventing abuse of a superior bargaining position and protecting individuals.**
- **In order to improve trading environment to one in which the creativity of individual creators is shown to the maximum,** the survey has been conducted on contracts between performers of music and broadcast programs (e.g. artists, actors, actresses, and personalities) and entertainment agencies to which they belong.

Surveying method

- Questionnaire survey of entertainment agencies (2,628 respondents (response rate: 30.8%))
- Hearing survey (95 persons (performers, 29; entertainment agencies, 37; broadcasters and program production companies, 10; record companies, 8; trade associations, 9; and experts, 2))
- Information provision forms were set on our website to collect and grasp information about possibly problematic facts (901 persons provided information)

Objects and results of the survey

*Based on the survey, an example of typical transactions is shown below. However, actual transactions are carried out in various ways.



- As a result of the survey, in (i) **transactions between performers and entertainment agencies**, (ii) **those between broadcasters and entertainment agencies / performers** and (iii) **those between record companies and entertainment agencies / performers**, possibly problematic acts have been found from the standpoints of the Antimonopoly Act and competition policy (see the next page for specific acts).

Initiatives of the JFTC

- From a standpoint of preventing acts considered problematic in the Antimonopoly Act, **the JFTC has publicized the contents of this report widely to the companies concerned.**
- The JFTC has requested **major trade associations of entertainment agencies** to publicize the contents of this report to their members. **Specifically, the JFTC has called attention to "restriction of transfer by a trade association or trade associations."**
- **In cooperation with the relevant authorities, the JFTC is closely watching progress on efforts by the companies concerned, and strictly and aptly deals with any act in violation of the Antimonopoly Act.**
- Based on the contents of this report, the JFTC is **to formulate and publish guidelines** that show a specific way of thinking on the Antimonopoly Act and the competition policy.
- The JFTC is to conduct an actual condition survey concerning the trading environment for creators at production sites of movies and animated cartoons.

Market Study on Transactions Between Performers and Entertainment Agencies in the Music and Broadcasting Industry (points)

		Possibly problematic acts in the Antimonopoly Act and the competition policy	Types of acts that could violate the Antimonopoly Act
Transactions between performers and entertainment agencies	Period of obligation under exclusive contract	<ul style="list-style-type: none"> ◆ Obligation under exclusive contract over an excessively long period of time ◆ Right to request an extension of term 	Abuse of a superior bargaining position, transactions under exclusive or restrictive conditions, and deceptive customer inducement
	Non-competition obligation	<ul style="list-style-type: none"> ◆ Non-competition obligation 	Abuse of a superior bargaining position, transactions under exclusive or restrictive conditions, and deceptive customer inducement
	Interference with transfer and independence	<ul style="list-style-type: none"> ◆ Demand for monetary benefits 	Abuse of a superior bargaining position, transactions under exclusive or restrictive conditions, interference with transactions, deceptive customer inducement
		<ul style="list-style-type: none"> ◆ Interference with performers wishing to transfer or become independent 	Abuse of a superior bargaining position and interference with transactions
		<ul style="list-style-type: none"> ◆ Interference with transferred or independent performers 	Interference with transactions
		<ul style="list-style-type: none"> ◆ Concerted restriction of transfer by several entertainment agencies or a trade association 	Unreasonable restraint of trade and concerted refusal to deal
	Acts against a performer's rights	<ul style="list-style-type: none"> ◆ Licensing of various rights, etc., related to deliverables 	Refusal to deal
		<ul style="list-style-type: none"> ◆ Restriction of the use of stage names and group names 	Refusal to deal, obstruction of transactions, and deceptive customer inducement
	Acts relating to the treatment of performers	<ul style="list-style-type: none"> ◆ Unilateral decisions on fees ◆ Coercion of duties, etc. 	Abuse of superior bargaining position
	Acts that interfere with the transparency of the contract	<ul style="list-style-type: none"> ◆ Failure to put the contract in writing or failure to fully explain the provisions of the contract 	Acts that induce abuse of superior bargaining position and deceptive customer inducement
		<ul style="list-style-type: none"> ◆ Failure to specify the details of a transaction ◆ Failure to specify a statement, etc. 	Acts that induce abuse of superior bargaining position
Transactions between broadcasters and entertainment agencies or performers	Terms and conditions of a transaction	<ul style="list-style-type: none"> ◆ Failure to put the contract in writing or failure to fully explain the provisions of the contract 	Acts that induce abuse of superior bargaining position
		<ul style="list-style-type: none"> ◆ Refusal to negotiate 	Abuse of superior bargaining position
Transactions between record companies and entertainment agencies or performers	Restriction of activities after termination of contract	<ul style="list-style-type: none"> ◆ Performance prohibition clause ◆ Re-recording prohibition clause 	Abuse of superior bargaining position and exclusively conditional transactions or binding conditional transactions

*Whether any of the above acts enumerated as possibly problematic ones actually comes into question in the Antimonopoly Act will be judged in light of the specific mode of an individual case.