

**Guidelines on Ensuring Fair Transactions between
Performers, etc. and Talent Agencies, Broadcasting
Companies, etc., and Record Companies
[Overview]**

Cabinet Secretariat

Japan Fair Trade Commission

Background, etc. to the formulation of these Guidelines

Grand Design and Action Plan for a New Form of Capitalism, 2024 Revised Edition (June 2024)

In the content industry, in light of the ongoing shift in emphasis to individual creativity, a fact-finding survey will be conducted with the cooperation of the Japan Fair Trade Commission into transaction practices, etc. in the fields of music and broadcast programs, with an emphasis on preventing the abuse of superior bargaining position, etc. and protecting individuals, and the survey will be completed by the end of this year. (Omitted)

Based on the results of this survey, we will aim to create Guidelines that indicate that any actions that go against the Guidelines may violate the Anti-Monopoly Act, with the aim of ensuring the fairness of contracts, etc. between performers and agencies.



The fact-finding survey report was published (December 2024)

As a result of the fact-finding survey, an investigation was carried out of three types of transactions: (1) transactions between talent agencies and performers; (2) transactions between broadcasting companies or program production companies (hereinafter referred to as "broadcasting companies, etc.") and talent agencies/performers; and (3) transactions between record companies and talent agencies/performers. It was confirmed that some of these transactions involved conduct that could be problematic from the perspective of the Anti-Monopoly Act .



Grand Design and Action Plan for a New Form of Capitalism, 2025 Revised Edition (June 2025)

Based on the fact-finding survey of transaction practices, etc. in the fields of music and broadcasting programs conducted in 2024, Guidelines will be formulated to clarify the approach, based on the Anti-Monopoly Act, with a view to ensuring the fairness of contracts, etc. between performers and agencies, and relevant ministries and agencies will work together to achieve broad awareness of these Guidelines .



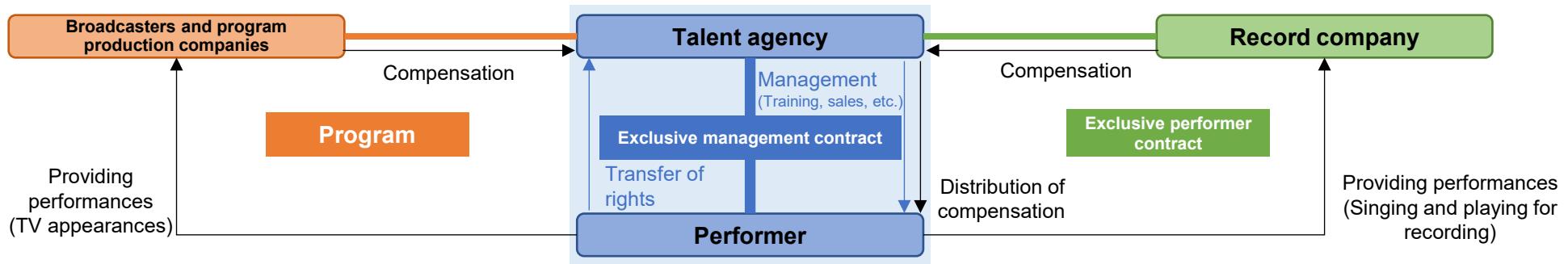
Formulation of these Guidelines

- ◆ Based on the fact-finding survey report, these Guidelines are compiled as action guidelines on actions to be taken by talent agencies, broadcasting companies, etc., or record companies in transactions indicated in (1) to (3) above.

*The guidelines also provide "Examples of actions that can serve as a reference for ensuring fair transactions" and "Examples of potentially problematic actions from the perspective of the Anti-Monopoly Act."

- ◆ The Cabinet Secretariat and the Japan Fair Trade Commission will strive for broad awareness of these Guidelines with the cooperation of relevant government ministries and agencies, trade associations, and other parties.

Transactions and actions covered by these Guidelines



Transactions between performers and talent agencies	Period of exclusive obligation	<ul style="list-style-type: none"> ◆ Setting the contract period for exclusive obligation ◆ Right to request extension of period 	
	Non-competition obligations, etc.	<ul style="list-style-type: none"> ◆ Stipulation of non-competition obligations, etc. 	
	Action to hinder transfer or independence	<ul style="list-style-type: none"> ◆ Requests for performance in money related to transfer and independence ◆ Hindering performers who wish to transfer or become independent ◆ Hindering performers who have transferred or become independent ◆ Transfer restrictions, etc. by joint action or trade associations, etc. 	
		Actions against performers' rights	<ul style="list-style-type: none"> ◆ Licenses for various rights, etc. related to works ◆ Restrictions on use of stage names and group names
			Acts concerning the treatment of performers
	Actions that hinder contract transparency	<ul style="list-style-type: none"> ◆ Not making contracts in writing and not fully explaining the contents of contracts ◆ Disclosure of the details of transactions relating to performances, etc. to performers ◆ Disclosure of details, etc. regarding performers' remuneration 	
		Transaction terms	<ul style="list-style-type: none"> ◆ Sufficient negotiation when requesting work, and clear indication of contract terms in writing, etc.
Transactions between record companies and talent agencies/performers	Restrictions on activities after contract expiration	<ul style="list-style-type: none"> ◆ Stipulation of clauses prohibiting performance ◆ No rerecording clauses 	

Contents of Guidelines (actions to be taken by talent agencies (regarding contract period and non-competition))

Regarding setting the contract period for exclusive obligation

- ✓ If it is necessary to secure a certain period of exclusive obligation, **the period shall be clearly stipulated in the contract in advance.**
- ✓ The contract period that stipulates the exclusive obligation shall be decided by mutual agreement, taking into account the requests of the performer, at the time of contract conclusion (or renewal), and if a performer requests a contract period shorter than that proposed by the talent agency, **the talent agency shall provide sufficient explanation and consultation to the performer regarding the period needed by the talent agency to recover investment costs for training, etc. (*1) (hereinafter referred to as “costs for training, etc.”) within a reasonable range, and to secure profits within a reasonable range.**
- ✓ If no contract period is specified, then normally the performer shall be allowed to terminate, at any time they wish, based on the fact that both parties can terminate the contract.
- ✓ At the stage of contract conclusion (or renewal), the content of the exclusive obligation and the contract period for which the exclusive obligation is set out shall be fully **explained to and discussed with the performer.**

*1 Costs for training, etc. include not only expenses directly related to improving the skills necessary for performing activities, such as the cost of lessons for the performer, but also capital invested to increase the value of publicity (the ability to attract customers of the performer's name, likeness, etc.) of the performer such as advertising expenses to promote the performer, within a reasonable range.

*2 This also includes securing revenues related to the portion, of the publicity value that will bring future revenues, generated by training, etc. of performers, that is contributed by the talent agency.

Regarding the right to request extension of period

- ✓ If the contract stipulates the right to request an extension of the contract period (the right to renew the contract upon request from the talent agency), then when it is deemed necessary to recover costs for training, etc. within a reasonable range, and secure profits within a reasonable range, the right **may be exercised within a reasonable range**, such as only once, and the **necessity and scope of its exercise shall be fully explained to and discussed with the performer at the stage of contract signing (or renewal).**
- ✓ When exercising the right to request an extension of period, **the period shall be the period necessary to recover unrecovered costs for training, etc. within a reasonable range and to secure profits within a reasonable range**, after considering alternative monetary compensation options **and the reasons for this shall be fully explained to the performer.**

Regarding stipulation of non-competition obligations, etc.

- ✓ **In principle, contracts shall not stipulate non-competition obligations, etc.** (if existing contracts contain such stipulations, **the clauses specifying non-competition obligations, etc. shall be deleted**)
- ✓ If a performer has access to a trade secret that should be protected, the first step is to consider entering into a non-disclosure agreement as a less restrictive means of dealing with the trade secret.

Contents of Guidelines (actions to be taken by talent agencies (regarding hindering transfer or independence))

Regarding requests for performance in money related to transfer or independence

- ✓ If a request for performance in money may be made when a performer leaves, it is best to **stipulate this in the contract in advance**.
- ✓ In particular, when performance in money is requested to recover unrecovered costs for training, etc. within a reasonable range and to secure profits within a reasonable range, if the amount of money requested may be large, then the **contract shall stipulate the circumstances, etc. under which performance in money is required, as well as the calculation method, etc., and provide sufficient explanation and consultation to performers, including the necessity of such payments**, at the time of contract signing (and renewal).
- ✓ Requests for performance in money **shall be limited to the extent deemed necessary and appropriate** in order to recover unrecovered costs for training, etc. within a reasonable range and to secure profits within a reasonable range.
- ✓ If a request for performance in money is made when a performer leaves, the performer **must be informed of the basis for calculating the requested amount, and at the same time, the necessity and appropriateness shall be fully explained to and discussed with the performer**.
- ✓ When requesting performance in money, a sunset clause shall be included, taking into account the performer's income after transferring or becoming independent, and consideration shall also be given to discussion with the agency the performer has transferred to of performance in money within a reasonable scope.

Regarding hindering performers who wish to transfer or become independent

- ✓ When a performer requests to transfer or become independent at the end of their contract, **the agency shall respond appropriately by, for example, providing the new agency the performer transfers to with contact information, important points, and other information necessary for their activities after the transfer, so that the transfer or move to independence can proceed smoothly**.
- ✓ **No statements shall be made, and no actions shall be taken, that would hinder a performer from transferring or becoming independent.**

Regarding hindering performers who have transferred or become independent

- ✓ **Agencies shall not say or do anything to hinder performer activities, so that performers who have transferred or become independent can continue to work smoothly after transferring or becoming independent.**
- ✓ Regarding performers who have transferred or become independent, **care shall be taken with words and actions** so as not to tell broadcasting companies, etc. that they did not leave on good terms or that they had some trouble, which may lead broadcasting companies, etc. to consider not hiring them or make them think there is a possibility of trouble, which may lead to them not hiring them.

Regarding transfer restrictions, etc. by joint action or trade associations

- ✓ Multiple talent agencies working jointly, or trade associations, shall not restrict the transfer of performers or refuse to sign contracts with performers who wish to transfer, but will instead **each enter into contracts with performers at their own discretion.**
- ✓ Transferring performers shall not be required to work as freelancers for a certain period of time, but **will be allowed to make their own free choices.**

Contents of Guidelines (actions to be taken by talent agencies (regarding performers' rights and stage names))

Regarding licenses for various rights, etc. related to works

- ✓ When a request for use is made by a business partner, etc. such as a broadcasting company, etc., **the use of various rights, etc. shall be granted unless there is a rational reason** not to grant such permission.
- ✓ **If permission is not granted to** use various rights, etc., **the reason for this shall be fully explained to the person who requested permission.**

Regarding restrictions on the use of stage names and group names

- ✓ If the rights to a stage name or group name (hereinafter referred to as "stage names, etc.") are to be vested in a talent agency, **this shall be clearly stipulated in the contract in advance, and fully explained to and discussed with the performer.**
- ✓ Unless there is a rational reason, **there shall be no restrictions on the use of stage names, etc., and even if restrictions are imposed, the method of restriction shall be reasonable, including alternative means such as payment of a use fee within a reasonable range, and the reasons for the restriction shall be fully explained to and discussed with the performer.**

Contents of Guidelines (actions to be taken by talent agencies (regarding treatment of performers and transparency of contracts))

Regarding unilateral decisions regarding remuneration

- ✓ Upon signing the contract, upon renewal, or at regular intervals, sufficient consultations shall be held with the performer, and terms such as the **amount of remuneration** (including secondary use fees, distribution of profits, etc. from social media and fan club operations, merchandise sales, etc.) **and commission rate, as well as the costs to be borne by the performer** (expenses to be deducted from remuneration) **should be clearly stated in the contract as far as possible.**
- ✓ In the event that expenses not specified in the contract are to be charged to the performer or deducted from the performer's remuneration, such expenses shall be fully explained and only deducted after consultation and agreement with the performer.

Regarding forced work

- ✓ **The specific details of the work** requested by the business partner **shall be presented to the performer in advance and their intentions shall be confirmed.**
- ✓ If a business partner requests work that a performer may not be interested in, and the agency moves to accept the work for reasons such as training or promoting the performer for the future, then the necessity of the work, etc. shall be fully explained to the performer, and **the work shall only be accepted**, after consultation with the performer, **if the performer consents to the work.**
- ✓ If a performer refuses to perform specific work, **the performer must not be retaliated against, etc.** by refusing to perform any other business activities, including other work, without reasonable grounds, and **the performer's free choice shall be respected.**

Regarding not making contracts in writing and not fully explaining contract content

- ✓ Contract contents (content of work, method of calculating remuneration, etc.) shall be clarified and **the contract shall be in writing** (*)
- ✓ **When concluding contracts with performers (especially young performers),** important contract contents such as clauses regarding the various rights acquired by the performers and stage name ownership, clauses regarding remuneration, and clauses that may restrict the performers' activities (including after they leave the agency) shall be proactively and **fully explained, including their purpose.**
- ✓ **When renewing a contract, the performer's intentions** regarding important contract contents **shall be fully confirmed.**
- ✓ A certain period of time shall be provided between the presentation of a draft contract and contract agreement/conclusion, allowing performers to fully consider the contents of the contract while consulting with lawyers, etc. (Performers shall not be forced to conclude a contract on the spot.)
- ✓ Consideration shall be given to allowing performers (especially young performers) to consult with a third party such as a lawyer regarding the contents of the contract, etc.
- ✓ **A sincere response shall be given at all times** to questions and requests for consultation from performers regarding the contents of the contract.

Regarding disclosure of the details of transactions relating to performances, etc. to performers

- ✓ When trying to receive a request work from a business partner such as a broadcasting company, etc., **talent agencies shall disclose details of the transaction content related to the performance, etc. that are knowable at that time** so that performers can select the work at their own discretion. (If the performer expresses their opposition to undertaking the work, see "Forced work" below.)

Regarding disclosure of details, etc. regarding performers' remuneration

- ✓ If performers are paid remuneration on a commission basis, the following items shall be **clearly stated: (1) the total contract amount for each task performed by the performer (each contract between the talent agency and the business partner); (2) the amount or ratio of (1) to be distributed to the talent agency and the performer, respectively; and (3) if there are any expenses, etc. to be deducted from the performer's remuneration in (2), the items and amounts**

* The Agency for Cultural Affairs has published the "Guidelines for the Establishment of Appropriate Contractual Relationships in the Cultural and Arts Sector (Summary of Review)" (on July 27, 2022, revised on October 29, 2024) as a result of review by the "Study Council for the Establishment of Appropriate Contractual Relationships in the Cultural and Arts Sector" with the aim of indicating a direction, etc. for improving contractual practices among artists, etc. in the cultural and artistic sectors. Although the guidelines do not mention exclusive management contracts, talent agencies should consider using the guidelines as a reference in ways such as promoting putting contracts into writing and promoting fairer transactions.

Content of Guidelines (actions to be taken by broadcasting companies, etc./record companies)

Actions to be taken by broadcasting companies, etc.

Regarding sufficient negotiation when requesting work, and clear indication of contract terms in writing, etc.

- ✓ **When requesting work from talent agencies and performers, companies shall provide as specific contract terms as possible** (e.g., amount of remuneration, payment terms, work content, binding period, etc.) **in writing** (*) (This includes emails, electronic files, etc.)
- ✓ Rather than unilaterally presenting or changing contract terms (such as remuneration amount, payment terms, work content, and binding period) etc. for talent agencies and performers, companies shall **confirm their opinions, provide sufficient explanations, and hold discussions with them** by providing opportunities for negotiations, etc.

* Regarding the putting into writing of contracts, the Agency for Cultural Affairs' "Guidelines for the Establishment of Appropriate Contractual Relationships in the Cultural and Arts Sector (Summary of Review)" provides "sample templates and explanations of contracts for performances by performers." Broadcasting companies, etc. should use such templates as a reference when putting their contracts into writing.

Actions to be taken by record companies

Regarding stipulating clauses prohibiting recording of performances (*)

- ✓ Companies shall confirm the purpose of establishing a performance recording prohibition clause that prohibits recording of performances for a certain period after the contract ends, and examine the necessity and appropriateness of contractual provisions prohibiting the recording of live performances, including whether or not to include such provisions. If such provisions are to be included, they shall be explained to and discussed with performers, etc. including their necessity and appropriateness.
- ✓ Even if there is deemed to be a necessity, etc. for the purpose of establishing a performance recording prohibition clause, **the scope and period of the prohibition shall be limited to the range necessary and reasonable for that purpose.**

* Same as the "no performance clause" in the fact-finding survey. It was decided to use names like these when formulating the guidelines.

Regarding no rerecording clauses

- ✓ When stipulating a no rerecording clause, rather than uniformly prohibiting the rerecording of songs released during a long-term contract period from the time the contract ends, **the clause shall be limited to songs that are necessary for the purpose of recovering investments within a reasonable range and securing profits within a reasonable range, and a necessary and reasonable period shall be set for that purpose.**
- ✓ **The starting point for the no rerecording clause to take effect shall be set in a way that is deemed necessary and appropriate,** including setting it at the time of release of each individual song, rather than just at the time the contract ends.
- ✓ Regarding the no rerecording clause, if a long time has elapsed since release of a song, spanning multiple contract renewals, and there have been negotiations from a talent agency of performer, the company shall **respond flexibly** by allowing rerecordings if investment within a reasonable range has been recovered and profits within a reasonable range have been secured.
- ✓ For already released songs, etc., the no rerecording clause applies not only to recordings for the purpose of releasing the same songs through other record companies, but also to live performances and concerts that involve recordings. **However, it shall be limited to the extent necessary and appropriate for the purpose of recovering investments within a reasonable range and securing profits within a reasonable range after the song's release.**

Future responses

- ◆ The Cabinet Secretariat and the Japan Fair Trade Commission will strive for broad awareness of these Guidelines with the cooperation of relevant government ministries and agencies, trade associations, and other parties.
- ◆ In cases where talent agencies, etc. engage in conduct that does not comply with the actions to be taken as set out in these Guidelines, and thereby pose a risk of impeding fair competition, etc., the Japan Fair Trade Commission will take strict measures in accordance with the Anti-Monopoly Act, etc.

(Reference) Application of the Anti-Monopoly Act, the SME Transactions Act, and the Act on the Improvement of Transactions between Freelancers and Enterprises

Overview

- the Act on the Improvement of Transactions between Freelancers and Enterprises, the SME Transactions Act, and the Anti-Monopoly Act may apply to transactions between talent agencies and performers.
- If a performer falls under the category of a "specified entrusted business operator" under the Act on the Improvement of Transactions between Freelancers and Enterprises or a "small and medium-sized entrusted business operator" under the SME Transactions Act, the actions listed in the table below may violate not only the Anti-Monopoly Act but also the Act on the Improvement of Transactions between Freelancers and Enterprises or the SME Transactions Act. The circumstances under which these apply will be determined based on the actual circumstances of each individual contract.
- For example, it should be noted that under the Act on the Improvement of Transactions between Freelancers and Enterprises, a business that outsources work is obligated to immediately clearly state the terms of the transaction, such as the amount of remuneration and the payment deadline (Article 3, Paragraph 1 of the Act on the Improvement of Transactions between Freelancers and Enterprises). As with the Anti-Monopoly Act, any violation of these laws will be dealt with strictly by the Japan Fair Trade Commission.

Actions that may violate the Act on the Improvement of Transactions between Freelancers and Enterprises or the SME Transactions Act	Main applicable provisions
Transactions between talent agencies and performers	
Requests for performance in money related to transfer and independence	Requests to provide unfair economic gains (Article 5, Paragraph 2, Item 1 of the Act on the Improvement of Transactions between Freelancers and Enterprises; Article 5, Paragraph 2, Item 2 of the SME Transactions Act)
Unilateral decisions regarding remuneration	Low-price setting (Article 5, Paragraph 1, Item 4 of the Act on the Improvement of Transactions between Freelancers and Enterprises; Article 5, Paragraph 1, Item 5 of the SME Transactions Act), and unilateral price determination without consultation (Article 5, Paragraph 2, Item 4 of the SME Transactions Act)
Coercion of work, etc.	Requests to provide unfair economic gains (Article 5, Paragraph 2, Item 1 of the Act on the Improvement of Transactions between Freelancers and Enterprises; Article 5, Paragraph 2, Item 2 of the SME Transactions Act)
Not making contracts in writing and not fully explaining the contents of contracts	Obligation to clearly state transaction terms (Article 3 of the Act on the Improvement of Transactions between Freelancers and Enterprises), Obligation to clearly state order details, etc. (Article 4 of the SME Transactions Act)
Disclosure of the details of transactions relating to performances, etc. to performers	Obligation to clearly state transaction terms (Article 3 of the Act on the Improvement of Transactions between Freelancers and Enterprises), Obligation to clearly state order details, etc. (Article 4 of the SME Transactions Act)
Transactions between broadcasting companies, etc. and talent agencies/performers	
Failure to make a contract in writing, not fully explaining the contents of the contract, and not accepting negotiations	Obligation to clearly state transaction terms (Article 3 of the Act on the Improvement of Transactions between Freelancers and Enterprises). Obligation to clearly state order details, etc. (Article 4 of the SME Transactions Act)