

Digital Platform Consultation Desk

for app developers

* commissioned by METI

September 2022

Background of DPCD

- **Act on Improving Transparency and Fairness of Digital Platforms (called as “TFDPA”)**

- ✓ established in May 2020, enforced in February 2021

- ✓ Digital platform providers subject to regulation:
(designated in April 1, 2021 by METI)

- https://www.meti.go.jp/english/press/2021/0401_001.html

- App stores

- Apple Inc. and iTunes KK (App Store)
- Google LLC (Google Play Store)

As one of the efforts to **ensure effective implementation of the TFDPA**, METI has **established consultation desks** for business users of digital platforms

Role of DPCD (1)

Digital Platform Consultation Desk *for app developers*

- Open Mon.-Fri. 9am to 12pm, 13pm to 17pm
- <https://www.app-developers.meti.go.jp/>
- E-mail info@app-developers.meti.go.jp
- TEL: 0120-535-366
- Operated by Mobile Content Forum (MCF)
 - * commissioned by METI



- ✓ **Advise on challenges in online shopping mall**
 - * instruction of terms & conditions of platforms
 - * advice on how to respond based on past cases
 - * support to communicate with platform providers
- ✓ **Provide information on lawyers and financial assistance to consultation with lawyers**
- ✓ Conduct seminars for app developers
- ✓ Interview with app developers to understand transaction environment
- ✓ Identify common issues, and consider how to solve them

Role of DPCD (2)

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Provide
information



- ✓ Confirm violations of the TFDPA (transparency act)
- ✓ Assess possibility of violations of Antimonopoly Act
→ Request the JFTC to execute measures
- ✓ Consider in evaluation of transparency & fairness of regulated platforms = **“Monitoring Review”**
- ✓ Use for policy making

FY2021 Summary of DPCD's Operations

for app developers

- There was a total of 1,407 consultations and inquiries in FY2021. (Note: The count is based on the types of information, and includes both positive and negative subject matter)
- Of these, there were 53 requests for consultations and inquiries from users, and 1,354 cases in which the DPCD collected information through interviews and other means.
- By type of information provided, among the requests and cases collected by the DPCD, there were;
 - 257 (18%) for matters related to changes in terms and conditions,
 - 250 (18%) for matters related to partial refusal of transactions (e.g., listing bans), and
 - 234 (17%) for matters related to rankings (e.g., search rankings).

Feedback from App Store Developers

* Based on feedback to the Consultation Desk since April 2021. Feedback has been organized by relatively frequent comments and comments that would impact a large number of developers.

1. Commissions and billing

- The rate for in-app settlement commissions has been reduced.
- I do not fully agree with the settlement rules and standards nor the placement of commission rates set by app store operators.
 - I feel that standard commissions are high. They should adequately disclose the costs, etc. to operate the app store and the reasons for commission rates.
 - Competition isn't fair because the commissions create a significant difference in our costs versus those for apps from the app store operator and their affiliate companies.
 - Users are forced to use the in-app payment method, which feels unreasonable. External links within the app that lead to other payment methods are prohibited. The result of these rules is that restraints are placed on developing services and that impacts usability.

2. Refunds

- We can now see a user's transaction history, which prevents double refunds to app users.
- App store operators decide the rules for refunds and how to accept refunds, which creates a burden on developers.
 - When an app user requests a refund within 90 days and the app store operator decides to grant a refund, the developer must accept that decision. I feel that this rule is unreasonable considering that there are refund requests from users with ill intent.
 - Accepting a refund after the unconditional refund period is restricted to certain cases by violations of warranty, laws, etc. Developers do not have the opportunity to contest an app store operator's decision to grant a refund.
 - Developers must provide proof if they question a user's refund request. However, app store operators do not disclose the information necessary to analyze a problem (specific details on the refund request, the reason for the refund, etc.), so contesting a decision is difficult in practice.

Feedback from App Store Developers

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3. App reviews

- App rejection notification emails now include the reason for the rejection. The reason for an app being rejected is often resolved through phone consultation with an agent. Operators now provide detailed explanations when apps are stuck in the review stage.
- Reviews have been improved from a consistency stance. The pace of app reviews has increased.
- I can't predict how an app review will go and it impacts my decisions for investment.
 - The review guidelines they provide are confusing and I can't determine what is allowed before the review. Apps require time and investment to develop, so they should provide standards and rejection examples.
 - My app was rejected after the main review even though the app store operator gave me feedback before the review. I take issue that there is no system for review and consultation before the final review. It should be easier to predict the outcome of reviews.
 - Games are suddenly unilaterally banned for policy violations even though they were offered legally in Japan.
- App reviews feel unreasonable and biased.
 - Another company's app with certain features was accepted but our company's app was rejected. It feels like developers are not treated equally. We would like guarantees on consistency and fairness in reviews.
 - Excessive prohibitions on collecting user information prevent me from collecting the information I need for my app due to the nature of the service it provides. Preliminary reviews to determine these rules are insufficient.
- Deleting an app that is already available on the app store impacts the users of that app, so I would like to be notified ahead of time and given the opportunity to correct the app.

4. Suspending accounts

- My account was suspended without advance notification because the app store operator indicated that the app violated guidelines, which then simultaneously deletes my other apps on the app store. I suffered significant losses as a result. Even if my app violated guidelines, all I needed to do was to correct the app and I don't understand why my account had to be suspended immediately.

Feedback from App Store Developers

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5. Complaint processing and consolations

- Support is now offered in Japanese and it feels like communication is improving.
- Issues do not get resolved because developers cannot communicate adequately with app store operators when an issue or other problem arises.
 - My questions were answered with scripted phrases and the issue was not resolved.
 - I've had no problems communicating over the internet, but I'm transferred around to several different desks when I try to reach out via phone. I often use phone calls for emergencies, but my conversations often ultimately result in me being told to use a web form.

6. App display placement etc.

- The best practices for search results and ranking displays are publicly available and easy to understand.
- The mechanisms behind displaying apps feels unclear and unfair and that's an issue.
 - The standards for being displayed on the recommended page are unclear. It feels like the methods for determining search results are not expressed clearly.
 - It feels like app store operators favor their own apps in search results, etc. The logic and algorithms are not publicly available, though, so I cannot verify whether app store operators actually favor their own apps.

7. Data use by app store operators

- It feels like some app stores use their position to obtain information on all apps - including our company's apps - and connect that with services offered by developers, then reflect that in their own services. When we examined the contents of a service, it was similar to what our company was going to develop.

* Developers also said, "Rules and notifications are easier to understand than before" and "They now offer information sessions and Q&A sessions for developers to create mutual communication."

Key Points of the Act on Improving Transparency and Fairness of Digital Platforms

(establishment: May 27, 2020; promulgation: June 3, 2020, enforcement: February 1, 2021)

Basic philosophy

- The Act stipulates that the government should secure **the minimally-necessary commitments from and enforce regulations** on digital platform providers, **on the basis that such providers must take voluntary and proactive efforts toward improving the transparency and fairness of their digital platforms** (this adopts a “co-regulation” approach that stipulates the general framework under laws and leaves details to businesses’ voluntary efforts).

Targets subject to the regulations

- The Act **designates** digital platform providers whose transparency and fairness must be significantly improved in particular compared to other digital platforms as “**specified digital platform providers**” and it makes such providers **subject to specific regulations**.

Roles that specified digital platform providers should play

- The Act requires specified platform providers to **disclose terms and conditions of trading and other information, develop procedures and systems in a voluntary manner and submit a report every fiscal year** on the overview of measures and businesses that they have conducted, **to which self-assessment results are attached**.

Note: The Act requires such providers to **send a prior notification of changes in terms and conditions, etc.** to users and to **voluntarily develop systems for settling complaints and disputes**.

Roles that administrative authorities should play

- The Act requires administrative authorities (METI Minister) to **review the current situation of platform operation** in accordance with the submitted yearly report and **publicize the assessment results** together with an overview of the report. In such reviews, administrative authorities are expected to hold **interviews with academic experts, customers and consumers of the target specified digital platform provider, and other stakeholders in order to hear their opinions** and encourage stakeholders to share challenges and enhance mutual understanding.
- The Act authorized the METI Minister to **request** that the Japan Fair Trade Commission **take appropriate measures under the Antimonopoly Act if it is found that a digital platform provider may be suspected of being involved in any cases of violations of the Antimonopoly Act**.

Note: The regulations under the Act should be **applied** to all digital platform providers **regardless of domestic or overseas origin of the business**. METI may develop **procedures for service by publication** by referring to case examples in which the Antimonopoly Act has been applied to overseas businesses.

“Monitoring Review” process

Roles that specified digital platform providers should play

Disclosure of information, e.g., terms and conditions

Specified digital platform providers are required to **disclose terms and conditions** to users and send **a prior notification of changes in such conditions** to them. This requirement aims to improve the transparency of trading.

[Examples of items to be disclosed]

- ✓ Prior notice of detailed changes in terms and conditions and reasons therefor
- ✓ Details of requests by the digital platform providers for customers to use additional paid services and reasons therefor
- ✓ Scope of data use
- ✓ Reasons for rejecting or stopping customers from placing their products on platforms
- ✓ Basic matters that determine search ranking

[Administrative measures and penalties]

- ✓ Issuance of recommendations and publications to improve improper practices
- ✓ Execution of cease and desist orders only when no correction is seen in such practices
- ✓ Imposition of penalties on violators of the orders

Voluntary development of procedures and systems

Specified digital platform providers are required to take necessary measures in accordance with **the guidelines** under the Act and **develop fair procedures and systems**.

[Examples of details of the guidelines]

- ✓ Development of procedures and systems to secure fairness of the platform
- ✓ Development of systems for addressing complaints and settling disputes
- ✓ Development of systems for closely communicating with stakeholders (choosing administrators in Japan)
- ✓ Building of frameworks for understanding conditions that customers are facing

[Administrative measure]

- ✓ Issuance of recommendations and publications to providers to improve their practices in cases where such actions are necessary to ensure that platform providers appropriately and effectively carry out certain measures

Report on the current situation of platform operation

Details of the report

- (1) Outline of business
- (2) Current situation of addressing complaints
- (3) Current situation of information disclosure
- (4) Current situation of voluntary development of procedures and systems
- (5) Results of self-assessment

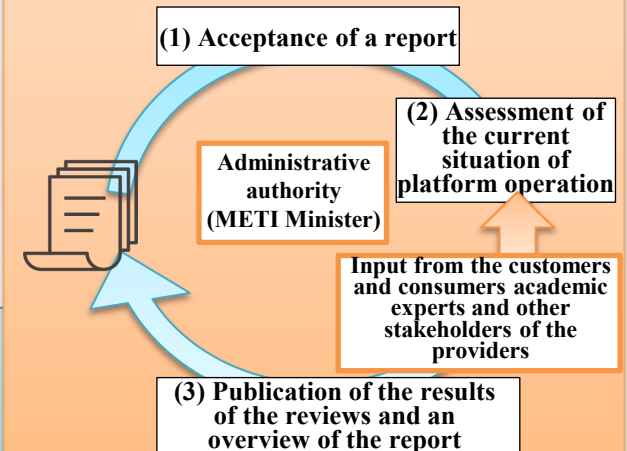
Note: Penalties may be imposed if a provider fails to submit a report or complete descriptions of required items

Voluntary actions to improve transparency and fairness in trading based on the results of the reviews

Roles of the administrative authorities

Implementation of reviews (assessment)

The administrative authority in charge is required to implement **reviews** of the current situation of specified digital platform providers' operation **with input from academic experts, customers and consumers of the providers, and other stakeholders** and to publicize the results of the reviews.



Request the JFTC to execute measures

The METI Minister is authorized to request the JFTC to take appropriate measures under the Antimonopoly Act if it is found that digital platform provider may be involved in any cases which are suspected of being violations of the Antimonopoly Act.