

Issues on Foreign Digital Platformers and Countermeasures

-Call for a Level Playing Field under Digital Economy-

1. Facts and Issues

- ◆ Under expansion of digital economy, Japanese tech companies have been put **at a disadvantage in taxation and regulation** compared to multinational tech titans (so-called “platformers”); they are **rapidly expanding their market share in Japan**.
- ◆ Japanese companies are suffering from fierce competition in the oligopoly market which foreign players dominate here in Japan. On the other hand, entry to Japanese market by Chinese tech companies is increasing with backing from state.
- ◆ Leaving this situation may allow foreigners to more dominate in Japanese market; **their market share is rapidly increasing and expanding into new territories. That will result in outflow of Japan’s net wealth.**



	Market Scale	Market Share of Foreign Companies	Market Transition/Forecast
Online Advertising	Approx. 1.5T JPY	50-70% (in 2018)	<ul style="list-style-type: none"> Market scale: Growing Market shares by foreign companies: Estimated to expand
E-Commerce	Approx. 7.2T JPY	25% (in 2016)	Double (Increased from 2010 to 2016)
Music Streaming Services	Approx. 57B JPY	Above 75% (in 2017)	Market scale: Growing
Video Streaming Services	Approx. 170B JPY	Above 20% (in 2018)	Double (Increased from 2016 to 2018)
Online Games	Approx. 1.3T JPY	Above 20% (in 2018)	Market shares by foreign companies expanding <small>*Foreign titles account for 15 out of top 30 downloaded in Japan in 2018</small>
App Stores <small>*services such as streaming and games are included</small>	Approx. 1.5T JPY	Almost 100% (in 2017)	Market scale: Growing

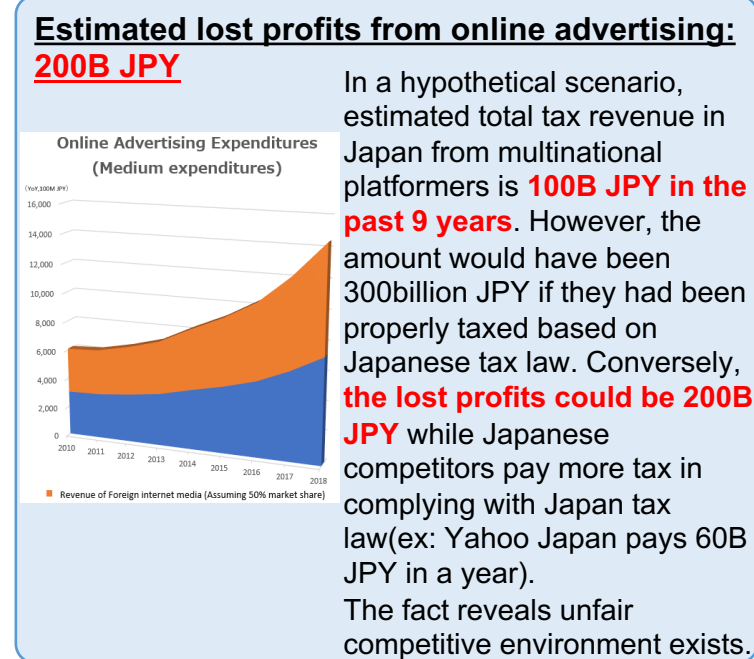
2. Countermeasures

1. Extraterritorial application and tightening law enforcement against foreign companies [by New law]

- ◆ Unfair situation for domestic companies has been created due to insufficient application of law and enforcement against foreign companies. To level a playing field, new legislations for **enabling all domestic laws to be applicable and enforceable to those situated in foreign jurisdiction** (e.g., enabling to collect information from overseas controlling companies, require data localization, create a new agency specialized in international law enforcement) should be required.

2. Measures against foreign platformers [by Antitrust law and Tax law]

- ◆ App market in Japan is oligopoly with two foreign stores. They charge 30% commission on apps that are sold and **unilaterally change the original terms of agreement in remarkably unfair manner**, and **settlement systems are designated by them**. To that end, government should intervene in order to ensure a fair competitive environment by applying provisions **against the abuse of superior bargaining position under the Antimonopoly Act (AMA)**.
- ◆ Compared to domestic operators, effective tax rates on multinational platformers tend to be far lower because of their tax planning (8.9% by EC). They reinvest profits generated from such shrewd planning in their business and grow up more; **Japanese competitors fully complying with domestic tax law have been put at a disadvantage**. Also, it is unclear how much platformers pay taxes on profits from Japan and tax revenue outflow is concerned. To that end, **a level playing field for multinational platformers and Japanese competitors in taxation should be sought while figuring out the tax gap.**



3. Measures against Chinese platformers [by FEFTA and Copyright law]

- ◆ Japanese tech companies are struggling with **barriers to entry to the highly regulated Chinese market**, while Chinese operators are increasingly entering into Japan market. To fill the gap, these should be considered: trade negotiations for removing barriers based on the principle of reciprocity, FEFTA amendment to restrict FDI to Japanese companies with cutting-edge technologies such as AI, copyright law amendment to strengthen extraterritorial application and to regulate leech sites guiding to pirated contents, etc.

4. Measures to flourish domestic industry [by Revising business laws]

- ◆ **We oppose to rush to regulate platforms as that may also have inhibitory effect for Japanese competitors’ growth**. JANE has repeatedly proposed growth strategies and **possible countermeasures for leveling a playing field are still untouched**.