

Comments on "Evaluation of Competition in the Mobile Ecosystem (Final Report)".

1. Comments on the report as a whole  
(Relevant page: General Comments(総論))

First of all, we would like to express our sincere respect for the efforts of Headquarters for Digital Market Competition (HDMC), Cabinet Secretariat to analyze in detail the layer structure and inter-layer relationships in the mobile ecosystem, as well as individual cases, and to comprehensively outline specific issues and measures to be taken.

JANE has pointed out the problems arising from the oligopolistic structure of mobile operating systems and app stores and the need to solve them, and we agree with the HDMC's basic policy for solving these problems.

2. Comments mainly on app store issues  
(Relevant pages: pp.80-83)

JANE has pointed out the issues arising from the high commission fees that app stores impose on app developers and the obligation to use their own payment and billing systems, which are also discussed in Section II 2-1 (Obligation to use payment and billing systems), not only from the perspective of competition policy, but also from the perspective of promoting Japanese industry, including start-ups.

In addition, this issue is also related to the detriment of consumers, as the fees are passed on to the prices paid by consumers and limit their choice. In fact, the same digital content is more expensive through in-app payment and billing systems, and there are many consumers who are unaware of other payment methods due to the restrictions on information as discussed in Section II 2-2 (Restrictions on providing information and guidance on other billing systems within the application).

Numerous issues have arisen as a result of these problems, and in order to ensure effectiveness, HDMC has established policies that not only prohibit operators providing app stores above a certain size from requiring the use of their own payment and billing systems, but also substantially prevent actions that would effectively prevent the use of other payment and billing systems in order to ensure security and privacy.

Actions that would substantially prevent the use of other payment and billing systems would

include the imposition of high fees for the use of third-party payment and billing systems, as has occurred in other countries.

JANE supports the policies outlined by the HDMC.

(Relevant pages: pp.89-90, pp.103-104)

In addressing the problems caused by high commission fees, it is extremely important to promote competition among various channels by diversifying the acquisition of applications and digital content and presenting them in a form that is easy for consumers to understand. From this perspective, the HDMC has stated in Section II 2-2 (Restrictions on Providing Information and Guidance on Other Billing Systems within the Application) that "Companies that provide app stores above a certain size are required to allow developers to provide information that includes different purchase conditions to users acquired through the app store and to make offers for transactions free of charge".

HDMC has also stated in Section II 2-3 (Creating a Competitive Environment Among Trusted App Stores) that "A rule should be introduced requiring OS providers above a certain size to effectively enable the use of alternative distribution channels for apps that ensure security and privacy.

JANE supports HDMC's recommendations.

In conjunction with the above-mentioned prohibition on the mandatory use of "walled" payment and billing systems, we strongly expect that the commission fees for payment and billing systems should be set at a level and content that is acceptable to app developers, thereby ensuring consumer benefits and promoting the growth of startups in Japan.

JANE believes that ensuring security and privacy is extremely important from the perspective of consumer protection, but it is necessary to have a mechanism to continuously verify whether the claims of OS providers that security and privacy may be compromised if certain application/digital content acquisition routes are allowed.

3. Comments on the need for a system that allows for flexible responses and ensures effectiveness

(Relevant page: General Comments(総論))

In this final report, we believe that the measures presented in the "Direction of Responses"(対応の方向性) to the problems in the mobile ecosystem must be effective.

For example, in Section II 6 (Access to OS Functions) of this Final Report, specific issues such as MiniApp, UltraWideBand, and Near Field Communication (NFC) and the direction of measures to address them are presented. However, there are specific issues that are not fully understood even for the same type of issues.

In addition, new specific issues may arise in the future as the market environment changes and technology advances.

In order to be able to respond to such cases, the future design of specific systems should be flexible to some extent, and if it is not possible to respond to such issues, the systems should be redesigned in a timely and appropriate manner.

(Relevant page: p.31)

In the "Direction of Responses" (対応の方向性) of this Final Report, there are several sections that state that OS providers may take necessary and proportionate measures to ensure security and privacy (Sections II 2-3, 2-4, 3-1, 3-2, 6-2 to 6-6).

As mentioned in 2. above, JANE believes that a framework is needed to allow authorities to assess whether such measures are indeed necessary and proportionate (i.e. not excessive) to ensure the effectiveness of such measures.

(Relevant page: p.33)

To ensure the effectiveness of the regulation, it is extremely important to ensure that the response in Japan is appropriate and prompt, even for non-Japanese operators.

From this perspective, the "domestic agent or administrator" referred to in Section I 3-2(オ) should be appointed as a person to whom the home country has substantially delegated authority with respect to responses in Japan.

4. Comments on the need to limit the scope of regulation to platform operators in the mobile ecosystem

(Relevant pages: pp. 29-30, 34-40)

Some foreign jurisdictions have adopted a regulatory approach that prohibits (or even mandates) certain actions for platform operators that exceed certain thresholds, regardless of their business model.

Such approaches may risk becoming a double-edged sword that stifles innovation in the relevant area. Therefore, it is necessary to limit the scope of regulation to cases and objectives that are truly necessary based on the market environment, and not to expand the scope of regulation beyond what is necessary.

In the mobile ecosystem, as the Final Report also recognizes, smartphones are essential to the daily lives of consumers and the economic activities of service providers in a digitized society, and the market share of two companies is close to 100% (essentially single homing due to high switching costs between operating systems). This approach is supported by the characteristics of the market.

The same type of approach should not simply be taken in other markets without taking these characteristics into account.

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